

EXHIBIT F - Feuerstein Dep

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

JOANNE HART and AMANDA PARKE, on behalf  
of themselves and all others similarly  
situated,

Plaintiffs,

v.

BHH, LLC d/b/a Bell + Howell and VAN  
HAUSER LLC,

Defendants.

- - - - -x

Videotaped Deposition of DEBBIE FEUERSTEIN,  
taken at 888 Seventh Avenue, New York, New  
York, commencing at 10:38 a.m., Tuesday,  
November 29, 2016, before Jamie Ann Stanton,  
a Shorthand Reporter and Notary Public of  
the State of New York.

JOB No. 2490905

PAGES 1 - 223

1 APPEARANCES:	1 EXHIBITS
2	2 PLAINTIFFS
3 Attorneys for Plaintiffs	3 EXHIBIT DESCRIPTION PAGE
4	4
5 BURSAR & FISHER, P.A.	5 Exhibit 14 copy of Debbie Feuerstein
6 BY: YITZCHAK KOPEL, ESQ.	6 FaceBook profile page 42
7 888 Seventh Avenue	7 Exhibit 15 BIII, LLC 006640-006666 52
8 New York, New York 10019	8 Exhibit 16 US Design Patent Application 86
9 646-837-7127	9 Exhibit 17 BHH, LLC 001268-001272 94
10	10 Exhibit 18 Fuerstein 0000086-00000100 121
11 Attorneys for Defendants	11 Exhibit 19 BHH, LLC 001531-001544 126
12	12 Exhibit 20 BHH, LLC 002509-002580 129
13 LEAHY, EISENBERG & FRAENKEL, LTD.	13 Exhibit 21 BIII, LLC 001545-001544 164
14 BY: SCOTT WING, ESQ.	14 Exhibit 22 BHH, LLC 001810-001815 172
15 33 W. Monroe Street, Suite 1100	15 Exhibit 23 BHH, LLC 000712-000717 194
16 Chicago, Illinois 60603-5317	16 Exhibit 24 Test Report by Qmann 197
17 312-368-4554	17 Exhibit 25 BHH, LLC 001356-001363 200
18	18
19 ALSO PRESENT:	19
20 Kevin Gallagher, Videographer	20
21	21
22	22
23	23
24	24
25	25
Page 2	Page 4
1 LITIGATION SUPPORT INDEX	1 THE VIDEOGRAPHER: We are now
2	2 going on the record at, approximately,
3 WITNESS EXAMINATION BY PAGE	3 10:57 a.m. This is the beginning of
4 D. Feuerstein Mr. Kopel 6	4 file number one. My name is Kevin
5	5 Gallagher representing Veritext, New
6	6 York. The date today is November 29,
7 DIRECTION TO WITNESS NOT TO ANSWER	7 2016. The deposition is being held at
8 Page Line Page Line	8 burrs operating room and Fisher
9 92 6	9 located at 888 Seventh Avenue, in New
10	10 York, New York. The caption of this
11	11 case is Joanne Hart, et al., versus
12 REQUEST FOR PRODUCTION OF DOCUMENTS	12 Bell + Howell, et al. The case is
13 Page Line Page Line	13 filed in the US District Court for the
14 161 6	14 Southern District of New York. The
15	15 case number is 15-CV 04804. The name
16	16 of our witness this morning is Debbie
17	17 Fuerstein.
18	18 At this time the attorneys
19	19 present in the room will identify
20	20 themselves for the record.
21	21 MR. KOPEL: Yitzchak Kopel on
22	22 behalf of Plaintiff, Joanne Hart.
23	23 MR. WING: Scott Wing on
24	24 behalf of Defendants.
25	25 THE VIDEOGRAPHER: Our court
Page 3	Page 5

D. Feuerstein

1 reporter this morning is Jamie  
2 Stanton. She represents Veritext  
3 Reporting as well. She will now swear  
4 in the witness and we can proceed.

5 REPORTER: Please raise your  
6 right hand. Do you swear or affirm  
7 that the testimony you are about to  
8 give will be the truth, the whole  
9 truth, and nothing but the truth?

10 THE WITNESS: Yes.

11 EXAMINATION

12 BY MR. KOPEL:

13 Q. Good morning, Ms. Feuerstein.

14 A. How are you?

15 Q. Well. Can you state your name  
16 and address for the record?

17 A. Yes. Debbie Feuerstein. My  
18 current address is 1162 North Avenue, New  
19 Rochelle, New York 10804.

20 Q. And is that your home address?

21 A. Yes.

22 Q. Is that your business address,  
23 as well?

24 A. No. My office is in Flushing,  
25 Queens.

Page 6

1 Q. What is the address of your  
2 office?  
3 A. 43-35, 5G, Queens Avenue,  
4 Flushing, New York, 11355.  
5 Q. Thank you, my name is Yitzhak  
6 Kopel. I am a lawyer. I represent  
7 Plaintiff Joanne Hart. She is a party in  
8 a class action lawsuit against BHH LLC and  
9 Van Hauser LLC. I will be asking you some  
10 questions in connection with that case.

11 Do you understand that?

12 A. Yes.

13 Q. And do you understand that you  
14 are not being sued and you are not a party  
15 to this case and that no one is making  
16 claims against you in this case?

17 A. Yes.

18 Q. Have you ever sat for a  
19 deposition before?

20 A. No. This is first time.

21 Q. Have you ever been a party to a  
22 lawsuit before?

23 A. Yes.

24 Q. When was that?

25 A. It was in 2004. And the case

Page 7

1 was -- happened -- happened in Hong Kong.

2 Q. Can you please briefly describe  
3 what that case was about?

4 A. It's just my customer did not  
5 pay us, so we were suing him for the money  
6 he owed.

7 Q. Is that still pending?

8 A. No. We actually lost the case,  
9 and then we settled in 2006.

10 Q. Thank you.

11 Before we continue, I would like  
12 to discuss the ground rules today.

13 Do you understand that you are  
14 testifying under oath today?

15 A. Yes.

16 Q. Do you understand that you have  
17 the same obligation to tell the truth  
18 today as you would in the courtroom before  
19 a judge and a jury?

20 A. Yes.

21 Q. It's important that we  
22 communicate clearly today. I am going to  
23 ask you a lot of questions about the case.  
24 If you don't understand a question, please  
25 let me know, and I will try to clarify it

Page 8

1 for you, okay?

2 A. Okay.

3 Q. Is Mr. Wing representing you  
4 today?

5 A. Yes.

6 Q. Are you compensating him for his  
7 representation today?

8 A. No.

9 Q. Do you know who is compensating  
10 him for his representation?

11 A. I don't know.

12 Q. Today's deposition is being  
13 videotaped.

14 Do you understand that?

15 A. Yes.

16 Q. Do you also understand there is  
17 a court reporter here today, and the court  
18 reporter is transcribing everything we say  
19 for the record?

20 A. Yes.

21 Q. So let's please try to speak at  
22 a reasonable pace to help the court  
23 reporter take down our words.

24 Will you help me with that?

25 A. Okay.

Page 9

3 (Pages 6 - 9)



## D. Feuerstein

1 Q. It's also difficult for the  
2 court reporter if we talk over each other,  
3 so I will try to never interrupt you while  
4 you are talking, and I ask that you please  
5 try to let me finish my questions before  
6 you begin your answers, okay?  
7 A. Okay.  
8 Q. Also, for the benefit of the  
9 court reporter, please try to answer my  
10 questions verbally because the court  
11 reporter cannot see nods or bodily  
12 gestures or even verbal non-words such as  
13 "uh-huh," okay?  
14 A. Understood.  
15 Q. Is there any reason that you  
16 cannot testify truthfully and accurately  
17 today?  
18 A. No.  
19 Q. Are you taking any prescription  
20 medications or drugs that may affect your  
21 ability to think, remember or testify  
22 truthfully today?  
23 A. No.  
24 Q. Are you currently employed?  
25 A. Yes.

Page 10

1 Q. Who is your employer?  
2 A. Intellitec.  
3 Q. What is your job title?  
4 A. Managing director.  
5 Q. Are you an owner of Intellitec?  
6 A. Yes.  
7 Q. Are there any other owners of  
8 Intellitec?  
9 A. No.  
10 Q. Is Intellitec incorporated?  
11 A. It's incorporated in Hong Kong.  
12 Q. How many employees does  
13 Intellitec have?  
14 A. We have office in Hong Kong, but  
15 no one's there. It's just a corporate  
16 office. And we have our accounting office  
17 there and we have accountant there. So  
18 the operation is actually over in China.  
19 And we have about a hundred workers.  
20 Q. So to clarify, you do not have  
21 employees in Hong Kong, but you have  
22 workers in China?  
23 A. Right. But Intellitec is  
24 incorporated in Hong Kong, and our  
25 financial operation is through the banks

Page 11

1 in Hong Kong.  
2 Q. And the business address you  
3 listed before in Queens, is that an  
4 address for Intellitec, as well?  
5 A. Yes. Intellitec USA, yes.  
6 Sorry, I have to rephrase. Here, we have  
7 only two people, me and another colleague,  
8 yeah.  
9 Q. What is the name much your  
10 colleague?  
11 A. Danny Li.  
12 Q. What is his position?  
13 A. He's an overseas manager.  
14 Q. What are his job duties?  
15 A. He is helping with the company's  
16 daily operation, shipment, also provides  
17 shipping schedule, and new projects,  
18 development.  
19 Q. So let's please take a step  
20 back.  
21 What does Intellitec do?  
22 A. We are an Audion company. We do  
23 design for customer. If they come to us  
24 for an idea, we do design. We have an  
25 engineer, we do engineering, and we apply

Page 12

1 markup for customer approval. Then we do  
2 the model, then we go into production, and  
3 we do -- sometimes we do packaging service  
4 as well.  
5 Q. Are you an engineer?  
6 A. Myself is not engineer, but I am  
7 in electronic business for  
8 twenty-five years.  
9 Q. Where in China is Intellitec?  
10 Is it a factory or a warehouse?  
11 A. It's a factory, yes.  
12 Q. Where in China is that?  
13 A. In Dunhuang City.  
14 Q. How big is the space?  
15 A. It's about four or 5,000 square  
16 meters. I don't know how much it is in  
17 square foot.  
18 Q. That's no problem.  
19 Now, is Intellitec incorporated  
20 in the United States, as well?  
21 A. Yes, but it's inactivating.  
22 Q. So when was it incorporated?  
23 A. I don't remember. A couple  
24 years ago. I don't remember precisely.  
25 Q. And was the entity dissolved?

Page 13

## D. Feuerstein

1 A. Dissolved? No.  
 2 Q. When did the entity cease being  
 3 an active entity?  
 4 A. I think we formed the company  
 5 about three years ago.  
 6 Q. And why was that?  
 7 A. Why is that? No, we just -- no  
 8 particular reason. No, because, actually,  
 9 all operation is done in Hong Kong and  
 10 China. So we just think because -- just  
 11 have a branch office here, not -- no  
 12 particular reason.  
 13 Q. Is the branch office in the  
 14 United States, is that owned or is that  
 15 rented?  
 16 A. Rented.  
 17 Q. Who pays the rent on that  
 18 office?  
 19 A. Hong Kong office.  
 20 Q. The Hong Kong entity?  
 21 A. Hong Kong -- yeah, Hong Kong  
 22 entity.  
 23 Q. Where are you from?  
 24 A. I'm from Taiwan.  
 25 Q. Are you a US citizen?

Page 14

1 A. Yes.  
 2 Q. When did you become a US  
 3 citizen?  
 4 A. I don't remember. I think it's  
 5 between 2010 and 2012.  
 6 Q. Can you please give me some  
 7 examples of products which Intellitec  
 8 manufactures?  
 9 A. Yes. We do a lot of  
 10 humidifiers. And my factories are  
 11 certified, we passed the factory audit by  
 12 Disney, so we manufacture humidifiers for  
 13 Disney, and we also manufacture  
 14 humidifiers for other brands. And we do a  
 15 lot of other nonelectronic items, like the  
 16 phone holders and a card that can help  
 17 people find their car and, what else, we  
 18 do a scrubber, it's an electrical  
 19 rechargeable brush to clean the bathroom  
 20 and pest repellents. And we also do some  
 21 Aerolizer, air purifier.  
 22 Q. Aside from Bell + Howell and  
 23 Disney, what other brands do you supply  
 24 products for?  
 25 A. In the past, we supply product

Page 15

1 for Sunbeam, Coleman, First Alert and we  
 2 also do Emson brand and Disney.  
 3 Q. Did Intellitec supply pest  
 4 repellents for Sunbeam?  
 5 A. Yes.  
 6 Q. Did Intellitec supply pest  
 7 repellents for any other brand aside from  
 8 Sunbeam and Bell + Howell?  
 9 A. First Alert.  
 10 Q. Can you please spell that?  
 11 A. F-I-R-S-T, A-L-E-R-T. I think  
 12 they are very big in the smoke alarm  
 13 business. Safety products.  
 14 Q. And does Intellitec continue to  
 15 supply pest repellents for First Alert and  
 16 Sunbeam?  
 17 A. Not anymore, because -- not  
 18 anymore. We stopped doing that.  
 19 Q. When did Intellitec first begin  
 20 supplying pest repellents for First Alert?  
 21 A. I don't remember, but it has to  
 22 be about twelve years ago, twelve,  
 23 thirteen, fourteen years ago.  
 24 Q. Can you give me an estimation of  
 25 how long Intellitec supplied pest

Page 16

1 repellents for First Alert?  
 2 A. For First Alert, about two  
 3 years.  
 4 Q. When did Intellitec first begin  
 5 supplying pest repellents for Sunbeam?  
 6 A. I don't remember precisely, but  
 7 I think it's about 2000, year 2000 or  
 8 1999.  
 9 Q. And when did that relationship  
 10 end?  
 11 A. End in 2004.  
 12 Q. Does First Alert continue to  
 13 distribute pest repellents?  
 14 A. I think after we stopped, they  
 15 also stopped pest repeller.  
 16 Q. What about Sunbeam; do they  
 17 continue to distribute pest repellents?  
 18 A. No.  
 19 Q. Why did First Alert decide to  
 20 cease distributing pest repellents?  
 21 MR. WING: Object to form.  
 22 You can answer.  
 23 A. It's -- that's related to  
 24 lawsuit in 2004, because my customer did  
 25 not -- did not pay, so we stopped working

Page 17

5 (Pages 14 - 17)

D. Feuerstein

1 with that customer, and they have the  
2 license for First Alert.  
3 Q. If you know, why did Sunbeam  
4 cease distributing pest repellents?  
5 MR. WING: Object to form.  
6 Go ahead.  
7 A. For the same reason, related to  
8 the lawsuit, where my customer was  
9 having -- they had the financial issue, so  
10 we stopped supplying them.  
11 Q. Are you aware of any  
12 correspondence between the Federal Trade  
13 Commission and either First Alert or  
14 Sunbeam regarding the pest repellents?  
15 A. No.  
16 Q. Can you please explain to me the  
17 differences between the pest repellents  
18 which you manufactured for First Alert and  
19 the pest repellents which you manufactured  
20 for Sunbeam?  
21 A. The case and the design's  
22 different. Outside design's different.  
23 Inside, it's similar.  
24 Q. And when you say "similar," do  
25 you mean that it's virtually identical in

Page 18

1 regards to the ultrasonic sounds which it  
2 emits?  
3 A. It's the same frequency, but the  
4 circuitry is not identical, because the  
5 casing design is different. My engineer  
6 would have to revise according to the case  
7 design.  
8 Q. Understood. As between those  
9 two models and the models which Intellitec  
10 manufactures for Bell + Howell, can you  
11 please explain the differences between  
12 those?  
13 A. It's also the case and design's  
14 different. You have to revise the  
15 circuitry to meet the casing design.  
16 And -- and sometimes, some items we have  
17 add-on features like AC outlet or night  
18 lights.  
19 Q. But once again, in regards to  
20 the ultrasonic sound waves that are  
21 emitted, I understood that the circuitry  
22 is different, but the ultrasonic sound  
23 waves are the same frequency across those  
24 three products, correct?  
25 A. Correct, yes.

Page 19

1 Q. Who invented -- who first  
2 invented the design for these three models  
3 of pest repellents we've been discussing?  
4 A. You mean Sunbeam, First Alert  
5 and?  
6 Q. Bell + Howell.  
7 A. Bell + Howell. It's -- it's  
8 designed by my in-house designer and  
9 engineers.  
10 Q. Can you please identify your  
11 in-house designer and engineers?  
12 A. Names?  
13 Q. Yes.  
14 A. Okay. Daniel Deng, D-E-N-G.  
15 And the electronic engineer, I don't  
16 remember, because through the years, we  
17 have changed a few.  
18 Q. Do you remember any of their  
19 names?  
20 A. The current one is Mr. Wen,  
21 W-E-N. He's been with us for six, seven  
22 years.  
23 Q. Do Mr. Deng and Mr. Wen, are  
24 they employees of Intellitec?  
25 A. Yes, Intellitec China.

Page 20

1 Q. They work in the factory in  
2 China?  
3 A. Yes.  
4 Q. Did Mr. Deng have a role in the  
5 invention of the First Alert, Sunbeam and  
6 Bell + Howell pest repellents?  
7 A. No. No. That was another  
8 designer.  
9 Q. How about Mr. Wen; did he have a  
10 role?  
11 A. No.  
12 Q. Do you remember the names of any  
13 individuals who had roles in the invention  
14 of these pest repellents?  
15 A. I remember the first name of the  
16 designer for First Alert and Sunbeam.  
17 It's Kenneth. He's in Hong Kong.  
18 Q. He is American?  
19 A. No. He's Hong Kong. Chinese.  
20 Q. Would you have his last name in  
21 your records?  
22 A. It's been more than -- almost  
23 seventeen, eighteen years. I don't  
24 remember. I have to check, and I don't  
25 even know if I still have it.

Page 21

6 (Pages 18 - 21)



D. Feuerstein

1 Q. What role did you play in the  
2 invention of the pest repellers?  
3 A. I do -- I supervise the cosmetic  
4 design, make sure it's nice and appealing.  
5 And I also supervise the specifications.  
6 Q. Can you please elaborate what  
7 you mean by supervising specifications?  
8 A. I will -- I will approve their,  
9 for example, the power conception, input  
10 output wattage, the intervals, the  
11 frequency, and the tolerance of the  
12 frequency.  
13 Q. Now, going back to the initial  
14 invention of these pest repellers, did you  
15 play any other roles in the invention of  
16 these pest repellers?  
17 A. Invented from scratch? No.  
18 Q. Whose idea was it to first  
19 invent/manufacture pest repellers?  
20 A. I don't know.  
21 Q. Was it someone at Intellitec?  
22 A. No. We are not the first one to  
23 make pest repeller.  
24 Q. Let me rephrase my question,  
25 please.

Page 22

1 Whose idea was it for Intellitec  
2 to first begin manufacturing pest  
3 repellers?  
4 A. It's one agent in Hong Kong.  
5 They represented other companies. So they  
6 came to us, asked us to make that for  
7 them.  
8 Q. What's the name of the agent?  
9 A. I don't remember his company,  
10 but his name is Larry Slobin.  
11 Q. And was he asking you on behalf  
12 of First Alert?  
13 A. At that time, he was  
14 representing the company. At that time  
15 they don't have the license yet. So we  
16 was -- he asked me on behalf of his  
17 client.  
18 Q. And who was his client?  
19 A. Team Products.  
20 Q. And was Team Products the  
21 predecessor to the company First Alert?  
22 A. Yes.  
23 Q. Did Intellitec use any other  
24 products as prototypes when it first began  
25 manufacturing pest repellers?

Page 23

1 MR. WING: Object to form.  
2 A. I'm sorry, I don't understand  
3 the question.  
4 Q. Sure. When Intellitec decided  
5 to first begin manufacturing pest  
6 repellers, which sources did it use to  
7 pull information from as to how to make  
8 pest repellers?  
9 A. Okay. They provide us samples  
10 for evaluation.  
11 Q. And what type of samples were  
12 these?  
13 A. It's -- it's a product they  
14 current bought from other companies.  
15 Q. Which other companies?  
16 A. I think it's -- the company I  
17 think is Long Whale in Taiwan.  
18 Q. Do you know any American brands  
19 that Long Whale supplies for?  
20 A. I don't have any association  
21 with the company, so I don't know.  
22 Q. Any other samples that you  
23 received at that time?  
24 A. No.  
25 Q. Did Long Whale have the same

Page 24

1 ultrasonic frequency as the pest repellers  
2 that Intellitec went on to make?  
3 A. Yes.  
4 Q. So was Intellitec's role  
5 basically to emulate the Long Whale  
6 samples that it received?  
7 A. We actually -- we do some  
8 improvements.  
9 Q. Can you please elaborate on the  
10 improvements?  
11 A. Long Whale's design is very out  
12 of date, so we redesign the whole case and  
13 we redo the model to make it more updated.  
14 And we also improved the -- make the  
15 frequency more precise. We make it more  
16 precise and we improve the speaker output.  
17 And we change from constant on to -- to  
18 intervals, to have intervals. So we make  
19 some improvement from Long Whale samples.  
20 Q. Who decided that Intellitec  
21 should make the frequency more precise?  
22 A. I don't remember at that time.  
23 Q. Did you have any role with that?  
24 A. Yes, yes. I would consult with  
25 the customer, so -- because I guess some

Page 25

7 (Pages 22 - 25)

D. Feuerstein

1 manufacturers that have bigger range,  
 2 but -- and we just targeted the more  
 3 precise -- we choose a better supply for  
 4 the frequency speaker.  
 5 Q. You were aware of who the  
 6 supplier for the frequency speaker was for  
 7 Long Whale, and you decided to go with  
 8 another supplier?  
 9 A. No, I don't know their supplier.  
 10 We don't know.  
 11 Q. Same question with improving the  
 12 speaker output. Was there something wrong  
 13 with the speaker output in Long Whale  
 14 products?  
 15 A. The DB output was a bit low, so  
 16 we make it louder.  
 17 Q. Now, when you say "a bit low,"  
 18 do you mean a bit low for the pests to  
 19 hear? Can you explain what you mean by "a  
 20 bit low"?  
 21 A. Yes, a bit low for the pests to  
 22 hear.  
 23 Q. What basis did Intellitec have  
 24 for determining that the speaker output  
 25 was not sufficiently loud for pests to

Page 26

1 hear?  
 2 A. We have a lot we have a lot of  
 3 equipment to test.  
 4 Q. I'm sorry, can you please  
 5 repeat?  
 6 A. We've a lot of testing equipment  
 7 in the factory to test.  
 8 Q. So what tests did you run during  
 9 that initial development phase?  
 10 A. We have computer system to test  
 11 the frequency. We have the decibel  
 12 testing equipment to determine the output.  
 13 Q. So I understood that you had  
 14 equipment to measure the frequency and the  
 15 volume.  
 16 A. Yes.  
 17 Q. But how did you determine that  
 18 those were insufficient to repel pests?  
 19 A. I --  
 20 MR. WING: Object to form.  
 21 Continue.  
 22 Q. Or I can even rephrase. How did  
 23 you determine that you even wanted to  
 24 improve upon those issues with the Long  
 25 Whale repellents?

Page 27

1 A. Because louder decibel, louder  
 2 output represents a better -- better  
 3 effectiveness. And better -- a bigger  
 4 area.  
 5 Q. So the louder it is, the greater  
 6 the repelling effect; is that what you are  
 7 saying?  
 8 A. Yes.  
 9 Q. And what basis do you have for  
 10 that statement?  
 11 A. I have done some research  
 12 through the years.  
 13 Q. Can you explain what research  
 14 you have done?  
 15 A. I have some research from -- I  
 16 don't remember precisely, you know, but  
 17 we -- one of the research is from Heffner  
 18 -- I don't remember his last name.  
 19 H-E-F-F-N-E-R. He has a lot of good  
 20 reports.  
 21 Q. Where did you find these  
 22 reports?  
 23 A. I found it online.  
 24 Q. Do you know if -- is that a  
 25 Mr. Heffner or Mrs. or Dr.?

Page 28

1 A. Mr. I think there are a few.  
 2 There are a few Heffners. They are  
 3 brothers in a family. They specialize in  
 4 ultrasonic.  
 5 Q. Are they Chinese?  
 6 A. No.  
 7 Q. Are they American?  
 8 A. I don't know that. Sorry, I  
 9 don't know their background. I don't know  
 10 their nationality.  
 11 Q. Are they academics?  
 12 A. Yes.  
 13 Q. Do you know which university  
 14 they were affiliated with?  
 15 A. I don't remember, but I think --  
 16 I think -- I don't remember which  
 17 university.  
 18 Q. Do you remember what field they  
 19 worked in at the university?  
 20 A. I don't know the field they work  
 21 in the university. I only read a report  
 22 regarding ultrasonic and rat, rats.  
 23 Q. To your recollection, did  
 24 Heffner or did you read any reports from  
 25 Heffner regarding other pests, other

Page 29

8 (Pages 26 - 29)



D. Feuerstein

1 critters aside from rats?  
 2 A. Yes.  
 3 Q. Which critters?  
 4 A. Sorry, what do you mean,  
 5 critter?  
 6 Q. Oh, sure. Which pests or  
 7 animals?  
 8 A. I know they do rats and mice  
 9 and -- and they do other -- other -- other  
 10 small animals, but I don't remember.  
 11 It's -- this is back to seventeen,  
 12 sixteen, eighteen years ago.  
 13 Q. Understood.  
 14 A. But they do have research for  
 15 different small animals.  
 16 Q. So based on the indications you  
 17 read from Heffner, I guess siblings, you  
 18 made the determination that you want to  
 19 make these improvements to the pest  
 20 repellers that Intellitec was  
 21 manufacturing over the Long Whale  
 22 repellers; is that correct?  
 23 A. Correct, yes.  
 24 Q. What other sources did you  
 25 research at the time?

Page 30

1 A. I don't remember. But we did  
 2 some research. And later we did testing.  
 3 also.  
 4 Q. What method did you use for  
 5 conducting the research? This was, I  
 6 guess, eighteen years ago, approximately?  
 7 A. Yes.  
 8 Q. What methods did you use for  
 9 conducting research on the topic?  
 10 A. Mostly online.  
 11 Q. So you conducted testing of the  
 12 repellers before they hit the market,  
 13 correct?  
 14 A. Yes.  
 15 Q. Where was this testing  
 16 conducted?  
 17 A. The initial testing was  
 18 conducted in China by Beijing University  
 19 Agriculture Department.  
 20 Q. Did you search for copies of  
 21 those tests?  
 22 A. Search for copy? No. This is  
 23 done by us with Beijing University.  
 24 Q. Right. Do you have copies of  
 25 the test?

Page 31

1 A. No, I don't. Yeah, because --  
 2 Q. Was anything published as a  
 3 result of these tests?  
 4 A. No. I don't -- these are  
 5 private tests. We did not publish in  
 6 public.  
 7 Q. Did they provide you with  
 8 results of the test?  
 9 A. Yes.  
 10 Q. Were the results e-mailed to  
 11 you?  
 12 A. Yes. E-mailed to my factory in  
 13 China at that time and I got a copy.  
 14 Q. Was it in Chinese or was it in  
 15 English or some other language?  
 16 A. I think it's in English. I  
 17 think both. They have both, mm-hm.  
 18 Q. Do you still have a copy of  
 19 those test results?  
 20 A. No, I don't have those copy  
 21 anymore.  
 22 Q. Did you search for a copy of  
 23 those test results before today?  
 24 A. No.  
 25 Q. What other tests did Intellitec

Page 32

1 run before manufacturing the pest  
 2 repellers?  
 3 A. From eighteen years ago to now?  
 4 Q. Excuse me. Before the pest  
 5 repellers hit the market.  
 6 A. This is the important one with  
 7 Beijing University. The test was -- I  
 8 think it took a few -- a few weeks, a few  
 9 months to -- to finish.  
 10 Q. Who wrote the protocol for that  
 11 test?  
 12 A. At that time the professor in  
 13 Beijing University.  
 14 Q. Do you know --  
 15 A. We explained -- I don't remember  
 16 the name because I don't contact the  
 17 professor. It's through my operation in  
 18 China.  
 19 Q. So you mean employees in the  
 20 China branch of Intellitec contacted the  
 21 university, and you had no direct contact?  
 22 A. No. It was my partner. I did  
 23 not have direct contact. At that time --  
 24 at that time I was based in Hong Kong, so  
 25 it was done through my China operation.

Page 33

9 (Pages 30 - 33)

## D. Feuerstein

1 Q. Did you have a partner  
2 eighteen years ago?  
3 A. Yes, eighteen years ago, I did.  
4 Q. Do you still have a partner?  
5 A. No.  
6 Q. What is that individual's name?  
7 A. Jong Sue.  
8 Q. And Jong is a man, right?  
9 A. Yes, a male, Chinese.  
10 Q. And he is no longer affiliated  
11 with Intellitec?  
12 A. No.  
13 Q. When did he stop being  
14 affiliated with Intellitec?  
15 A. 2004.  
16 Q. Did he give you any -- well, how  
17 did he stop being affiliated with  
18 Intellitec?  
19 A. It's part of the lawsuit.  
20 Breach of contract.  
21 Q. So there was a falling out with  
22 Mr. Sue?  
23 A. Yes.  
24 Q. Was Mr. Sue bought out as a  
25 result of that lawsuit?

Page 34

1 A. No.  
2 Q. What resolution came about; did  
3 he just quit and leave?  
4 A. He breached the contract by  
5 contacting my customer. We have  
6 noncompete agreement. So I stopped  
7 working with him. Then -- then we got  
8 into a lawsuit and I think the lawsuit  
9 last two years and then he went out of  
10 business.  
11 Q. What do you remember about the  
12 test that was run in Beijing University?  
13 A. It was done by the head  
14 professor of the Agriculture Department of  
15 Beijing University and he led a few --  
16 it's not students. It's more senior than  
17 student to do the research. So -- and  
18 they operated, we do mice, rat, roaches  
19 and spiders. And I remember it took them  
20 at least eight weeks -- two to  
21 three months to finish the testing. The  
22 chamber, the protocol, the chambers and  
23 all the testing.  
24 Q. Did you review the protocol  
25 before the test was run?

Page 35

1 A. Yes. I had discussed with my  
2 partner.  
3 Q. So did you and Mr. Sue  
4 collaborate with the university on the  
5 protocol?  
6 A. Yes.  
7 Q. But the professor initially  
8 wrote it and then you provided comments;  
9 is that the case?  
10 A. Yes.  
11 Q. What, if anything, did you  
12 change from the original protocol the  
13 professor provided to you?  
14 A. No, we didn't --  
15 MR. WING: Object to form.  
16 A. I don't remember. But I don't  
17 think we changed much because they are the  
18 professional for pests.  
19 Q. Had you ever run any tests at  
20 Beijing University on the pest repellents  
21 since that time?  
22 A. I think we did once or twice  
23 test with them through one or two years,  
24 and then -- then that's it. Yeah, yeah.  
25 I think professor, I think, left. I think

Page 36

1 he is no longer in Beijing University, so  
2 we end up switch our testing to  
3 professional laboratories.  
4 Q. So you conducted, perhaps, one  
5 or two more additional tests?  
6 A. Including original one, one or  
7 two more total.  
8 Q. But this was prior to your  
9 manufacture of the Bell + Howell devices,  
10 correct?  
11 A. Yes, that's much -- much  
12 earlier.  
13 Q. Can you please tell me about  
14 your educational background?  
15 A. I studied in Taiwan. My  
16 background is international trade.  
17 Q. So what degrees have you  
18 received?  
19 A. Here, it's a BA. Not master.  
20 Pre master, what is it?  
21 Q. That's a Bachelors?  
22 A. A Bachelors, yes.  
23 Q. So you received a Bachelors from  
24 where?  
25 A. From Ming Chuan University.

Page 37

10 (Pages 34 - 37)

D. Feuerstein

1 Sorry, Ming Chuan University. It's a  
 2 university for business.  
 3 Q. So it's a business university.  
 4 Did you have any schooling  
 5 beyond that Bachelors degree?  
 6 A. No.  
 7 Q. And your degree is in  
 8 international trade, correct?  
 9 A. Yes.  
 10 Q. Do you have any sorts of  
 11 professional certifications?  
 12 A. Professional, no.  
 13 Q. This individual you mentioned  
 14 earlier, Kenneth, do you know what his  
 15 background was?  
 16 A. Designer. He's a professional  
 17 designer.  
 18 Q. Is he a scientist?  
 19 A. No. He was mostly for the  
 20 cosmetic, the casing design.  
 21 Q. How about Mr. Wen; what's his  
 22 background?  
 23 A. He's electronic -- mechanical  
 24 engineer.  
 25 Q. So he has a degree in mechanical

Page 38

1 engineering?  
 2 A. Yes.  
 3 Q. And what about Mr. Deng?  
 4 A. Mr. Deng is also a designer.  
 5 Q. Do you know what his degree is  
 6 in?  
 7 A. Also in design.  
 8 Q. Intellitec does not employ any  
 9 entomologists, correct? An entomologist  
 10 is an expert in insects.  
 11 A. No.  
 12 Q. Were you affiliated with the  
 13 Home Improvement Company at any point?  
 14 A. No, but we've been selling  
 15 product to home improvement stores.  
 16 Q. So it's just the two employees  
 17 come to work in your Queens office,  
 18 correct?  
 19 A. Yeah. Just me and Danny.  
 20 Q. Does the office space from  
 21 desks?  
 22 A. Yes.  
 23 Q. Is there carpeting?  
 24 A. Yes.  
 25 Q. There's tables?

Page 39

1 A. Yes.  
 2 Q. Do you work at a company called  
 3 SGS?  
 4 A. Yes.  
 5 Q. How do you divide your time  
 6 between Intellitec and SGS?  
 7 A. I worked for SGS when I still  
 8 lived in Taiwan and I left SGS in Taiwan  
 9 in 1995 and I moved to Hong Kong and I  
 10 established my own company.  
 11 Q. So when did you begin working  
 12 for SGS?  
 13 A. I think it's about 1989.  
 14 Q. Do you still work for SGS?  
 15 A. No.  
 16 Q. When did you stop working for  
 17 SGS?  
 18 A. 1995.  
 19 Q. What was your position at SGS?  
 20 A. I was the executive assistant.  
 21 Q. For whom?  
 22 A. For Mr. Alegart. He was the CEO  
 23 of SGS in Taiwan.  
 24 Q. Can you please spell his name?  
 25 A. A-L-E-G-A-R-T.

Page 40

1 Q. What were your duties as an  
 2 executive assistant at SGS?  
 3 A. I run a lot of reports, monthly  
 4 reports, and manager meeting reports. A  
 5 lot of administration stuff. And the  
 6 company grew bigger and -- and I assist  
 7 Alegart to do operational stuff. But  
 8 many -- everything's about administration.  
 9 Q. Can you please explain what kind  
 10 of reports you are referring to? You said  
 11 you drafted reports?  
 12 A. We have monthly meeting with all  
 13 the -- we have -- SGS at that time had one  
 14 CEO and nine vice presidents. So every  
 15 month we had manager meeting. So I --  
 16 when there meeting, I wrote a report and I  
 17 submit it to the head office in Geneva.  
 18 Q. Is Mr. Alegart still the CEO of  
 19 SGS?  
 20 A. No. He retired.  
 21 Q. When?  
 22 A. I don't know when, because after  
 23 I left SGS I don't contact him anymore,  
 24 but I know he retired. He's Belgian, but  
 25 he live in Taiwan right now.

Page 41

11 (Pages 38 - 41)



D. Feuerstein

1 Q. How many employees are in the  
2 SGS office?  
3 A. At that time, it was about six  
4 to seven hundred.  
5 Q. That's the office in Taiwan?  
6 A. They have several offices in  
7 Taiwan.  
8 Q. I see. How many were in your  
9 office?  
10 A. We had office in Taiwan, I  
11 assume about two to three hundred. I  
12 don't remember, but I remember total at  
13 that time was about six to seven hundred.  
14 MR. KOPEL: I ask the court  
15 reporter to please mark as Exhibit 14  
16 a copy of the FaceBook profile.  
17 (Plaintiffs' Exhibit 14 was  
18 marked for identification, as of this  
19 date.)  
20 Q. Ms. Feuerstein, do you have  
21 Exhibit 14?  
22 A. It's my FaceBook page, but I'm  
23 not very active on FaceBook.  
24 Q. I see here references to SGS  
25 Taiwan?

Page 42

1 A. Mm-hm.  
2 Q. When did you write this on your  
3 FaceBook page?  
4 A. I don't remember. Two, three,  
5 four years ago.  
6 Q. Are you still in touch with  
7 anyone from SGS Taiwan from the time of  
8 your employment?  
9 A. No.  
10 Q. Okay, thanks. You can put that  
11 aside.  
12 A. (Complying.)  
13 Q. Can you please explain what the  
14 purpose of the Bell + Howell pest  
15 repellers is?  
16 A. The function or the purpose?  
17 Q. Thank you. Can you please  
18 explain what the function is?  
19 A. We use ultrasonic technology,  
20 which is safe and environment friendly,  
21 but effective to repel insects -- pests.  
22 Q. Which pests are those?  
23 A. Rats, mice, spiders, ants and  
24 roaches.  
25 Q. Had you considered using --

Page 43

1 well, the Bell + Howell repellers are,  
2 they only face in one direction, right,  
3 the speakers only face in one direction,  
4 correct?  
5 A. Some of the -- yes, it's  
6 directional, because some of the pest  
7 repellers, we have two speakers.  
8 Q. Some of the Bell + Howell pest  
9 repellers have two speakers?  
10 A. Mm-hm.  
11 THE COURT REPORTER: Yes or  
12 no?  
13 THE WITNESS: Yes.  
14 Q. Why do some of them have one  
15 speaker and some of them have two?  
16 A. Depends on the design and the  
17 product.  
18 Q. Is there an advantage to the two  
19 speaker models over the one speaker  
20 models?  
21 A. Two speakers, advantage? Yes.  
22 Two speaker one, we have two different  
23 frequencies. And again it's because there  
24 are two speakers, so the coverage is -- is  
25 bigger.

Page 44

1 Q. Who decided to manufacture  
2 models that are two different frequencies?  
3 A. I have discussed this with the  
4 customer.  
5 Q. Who had the idea?  
6 A. Whose idea, because I did make  
7 these in the past for Sunbeam and First  
8 Alert, so we making two speaker and we  
9 making one speaker.  
10 Q. What frequencies do the Bell +  
11 Howell repellers emit?  
12 A. 40 kilohertz and plus/minus  
13 about five kilohertz. So it's a range.  
14 Q. Did you or anyone else at  
15 Intellitec confer with outside scientists  
16 in developing Bell + Howell pest  
17 repellers?  
18 A. Scientists? No.  
19 Q. Did you or anyone at Intellitec  
20 consult any treatises on pest management?  
21 A. What is treatises?  
22 Q. A treatise is like a textbook?  
23 A. For pest management?  
24 Q. Correct.  
25 A. No.

Page 45

12 (Pages 42 - 45)



## D. Feuerstein

1 Q. Have you heard of a handbook or  
2 a book called the Handbook of Pest  
3 Control?  
4 A. I probably read some of it  
5 online.  
6 Q. Oh, so you think that you saw  
7 that book online and read it? When was  
8 that?  
9 A. A couple years ago. Maybe not  
10 the same book, but I do research from time  
11 to time to understand.  
12 Q. Can you explain how the  
13 ultrasonic technology works to repel  
14 pests?  
15 MR. WING: Object to form.  
16 You can answer.  
17 A. Because these pests have a poor  
18 range of hearing range. And for them,  
19 mostly it's ultrasonic, meaning it's  
20 inaudible to human ear. So in order to  
21 repel them, we made very loud noise.  
22 That's why I said output of speaker is  
23 important. We can't hear them, but for  
24 them, it's very loud and annoying. And we  
25 also designed this pause, on/off, on/off,

Page 46

1 so that we are better than constant on and  
2 off. Because of the noise, constantly  
3 emits such a loud noise, they can't take  
4 it, and eventually will leave the place.  
5 Q. When did you first make contact  
6 with anyone at Bell + Howell?  
7 A. 2006.  
8 Q. Who was that with?  
9 A. You mean who introduced me or  
10 who do I meet?  
11 Q. Good question. First of all,  
12 who introduced you?  
13 A. Through a mutual friend.  
14 Q. And who did you first speak to  
15 at Bell + Howell?  
16 A. Stephen. Stephen Michelle.  
17 Q. Was this in person or by  
18 telephone?  
19 A. I think our first meeting was in  
20 person.  
21 Q. And at this meeting, did you  
22 suggest that you could manufacture pest  
23 repellers for Steven's company?  
24 A. Yes.  
25 Q. What materials did Stephen ask

Page 47

1 from you or what materials did you provide  
2 to him in connection with this sales  
3 pitch?  
4 MR. WING: Object to form.  
5 A. I presented the product we did  
6 in the past. And I presented AEP  
7 registered factory, American Environmental  
8 Protection Agency we are registered,  
9 because -- and I presented -- I presented  
10 a design we have for Sunbeam and I  
11 presented the stores we used to work in  
12 the past, through Team Product. We don't  
13 do direct sales. So through Team Product,  
14 we do resale. And ultrasonic technology,  
15 how we repel the pest.  
16 Q. Did you supply him with any test  
17 results at the time?  
18 A. During first meeting, no.  
19 Q. When did Intellitec first begin  
20 supplying pest repellers to Bell + Howell?  
21 A. I think it's the following year,  
22 2007.  
23 Q. How big was the first shipment  
24 of pest repellers?  
25 A. It's a test shipment. I think

Page 48

1 it's about 5,000 pieces.  
2 Q. Which model of pest repeller was  
3 that shipment?  
4 A. It's a pest repeller with AC  
5 outlet on the side, so you can plug the  
6 cable on the side.  
7 Q. Did that have the Bell + Howell  
8 name on it?  
9 A. Yes.  
10 Q. Was there an agreement made  
11 between Intellitec and Bell + Howell for  
12 Intellitec to supply the pest repellers to  
13 Bell + Howell?  
14 A. We have the authorization later  
15 to manufacture product for and some  
16 purchase order, but there is no agreement.  
17 Q. Have there been set prices at  
18 which Intellitec provides the pest  
19 repellers to Bell + Howell?  
20 A. Yes.  
21 Q. How often have those prices  
22 fluctuated?  
23 A. Very seldom. We very stable in  
24 manufacturing business.  
25 Q. So how has Bell + Howell gone

Page 49

## D. Feuerstein

1 ahead and made orders from Intellitec over  
2 the years?  
3 A. I don't -- how? You mean?  
4 Q. What mode of communication has  
5 Bell + Howell used to make orders for --  
6 A. Oh, they will -- at the  
7 beginning, it was faxed. The order was  
8 done by e-mails.  
9 Q. So would Bell + Howell request a  
10 number and then you would give them a  
11 quote each time?  
12 A. No. We quote by models. So  
13 even it's one piece or -- yeah, for big  
14 order, for big quantity, we will  
15 probably -- we will work on the cost. But  
16 mostly just very stable.  
17 Q. Who designed the packaging for  
18 the Bell + Howell repellers?  
19 A. My designer.  
20 Q. That's Mr. Deng?  
21 A. Yes.  
22 Q. Did you have input on it?  
23 A. Yes. Once he's done, he will  
24 send it to me for approval.  
25 Q. Then?

Page 50

1 A. Then I send it to -- to Van  
2 Hauser for approval.  
3 Q. So along the way, you might have  
4 made comments, Van Hauser might have made  
5 comments, in order to arrive at the  
6 finished product, correct?  
7 A. Mm-hm.  
8 THE COURT REPORTER: Yes or no?  
9 THE WITNESS: I'm sorry, say  
10 that again.  
11 MR. KOPEL: Oh, sure, read  
12 that back.  
13 (Whereupon, the requested  
14 testimony was read back by the Court  
15 Reporter.)  
16 A. Yes.  
17 Q. What about the instruction sheet  
18 that comes inside the pack packaging, who  
19 wrote that?  
20 A. Also Mr. Deng. Because we've  
21 been manufacturing pest wear for all these  
22 years, so he has a lot of template.  
23 Q. I see. So Intellitec used the  
24 instructions sheet from the First Alert  
25 and the Sunbeam repellents as a template

Page 51

1 for the instruction sheet --  
2 A. Yes.  
3 Q. -- used here?  
4 A. Yes.  
5 Q. Understood.  
6 MR. KOPEL: I ask the court  
7 reporter to please mark as Exhibit 15  
8 a document bearing Bates numbers  
9 BHH, L.L.C. 006640 to 6666.  
10 (Plaintiffs' Exhibit 15 was  
11 marked for identification, as of this  
12 date.)  
13 Q. Ms. Feuerstein, please take a  
14 moment to flip through it, if you would  
15 like, and let me know when you are ready.  
16 A. (Reviewing exhibit.) Okay.  
17 Q. Do you have Exhibit 15? Have  
18 you seen it before?  
19 A. Yes.  
20 Q. What is it?  
21 A. These are the artwork, the  
22 packing artwork for pest repeller.  
23 Q. Thank you. I apologize. I  
24 intended for this to actually be provided  
25 to you in color, and I see it's in

Page 52

1 black-and-white.  
2 A. That's okay. Because --  
3 Q. Because you are familiar with  
4 it?  
5 A. Yes. It's done by my designer.  
6 Q. And you had a role in approval  
7 each of these pieces of artwork --  
8 A. Yes.  
9 Q. -- before it hit the market?  
10 A. Yes.  
11 MR. WING: Object to form.  
12 Q. Now, I know this is a difficult  
13 question because there are  
14 twenty-six pages here, but off the top of  
15 your head, can you think of any pieces of  
16 artwork for the Bell + Howell repellents  
17 that were used not already contained in  
18 this document?  
19 A. I don't know.  
20 Q. But none come to mind, right?  
21 There's none that you can specifically  
22 think of?  
23 A. No. You have a lot of repeat  
24 pages here, so it's the same -- same  
25 stuff.

Page 53



D. Feuerstein

1 Q. So can you give me an example of  
2 a page that was a repeat page, please?  
3 Well, for ease of use, do you  
4 see on the bottom, there's -- well, it's  
5 on the side of your document there, it's a  
6 BHH, LLC number.  
7 A. Okay.  
8 Q. So that is a good way to  
9 describe the pages.  
10 A. Okay.  
11 Q. Can you give me an example of  
12 any pages that you think are repeat pages  
13 in this document, please?  
14 A. Oh, repeat pages? Okay. 40 and  
15 41 are repeated.  
16 Q. I'm sorry, can I please stop you  
17 there?  
18 A. 40 and 41 are the same.  
19 Q. 40 -- are you sure 40 and 41,  
20 because these designs actually look  
21 different. You mean the first page and  
22 the second page of the --  
23 A. I mean the same product. So  
24 maybe we updated the artwork.  
25 Q. Okay. I understand.

Page 54

1 A. Sorry, what I mean is the same  
2 product. You see, the same six pack, and  
3 we update it. We changed the -- we moved  
4 the words and we updated the pictures, the  
5 insert pictures.  
6 Q. Okay, understood.  
7 A. But it's the same product. And  
8 the words -- actually, the contents are  
9 the same, but use different font and we  
10 move around.  
11 Q. Okay, so you weren't saying that  
12 you see copies of the actual package  
13 design in this, you just see different  
14 designs used for the same product within  
15 this document, correct?  
16 A. Correct, yes.  
17 Q. Please turn to the last page, so  
18 that's Bates number BHH, LLC 006666.  
19 A. (Complying.)  
20 Q. So it says at the top, Bell +  
21 Howell Ultrasonic Pest Repellers with Dawn  
22 to Dusk Sensors.  
23 Do you see that?  
24 A. Yes.  
25 Q. Have all the pest repellers --

Page 55

1 MR. KOPEL: Strike that. Let  
2 me rephrase the question.  
3 Q. Have all the packaging designs  
4 for the Bell + Howell pest repellers  
5 stated that they are ultrasonic pest  
6 repellers?  
7 A. Yes.  
8 Q. And do you see below, it says --  
9 there's pictures and words. It says:  
10 Ants, mice/rats, spiders, roaches?  
11 A. Yes.  
12 Q. And the same question: Have all  
13 the artwork for the packaging that you  
14 recall, have they all included that  
15 illustration?  
16 A. I think so, yes.  
17 Q. And do you understand that  
18 illustration to mean that these products  
19 will repel those pests that are depicted  
20 on the image?  
21 A. Yes.  
22 Q. Below it, it says: Plug it in,  
23 and there is an ellipses, drive pests out.  
24 Do you see that?  
25 A. Yes.

Page 56

1 Q. Who originally wrote that?  
2 A. I think my designer took it from  
3 the artwork we have in the past.  
4 Q. Sorry, he took it from the what?  
5 A. From the artwork we work before.  
6 Q. Are you referring to previous  
7 artwork from Bell + Howell or previous  
8 artwork for --  
9 A. Previous artwork for others.  
10 Q. I see. So this phrase, you  
11 think, appeared on either First Alert or  
12 Sunbeam or both?  
13 A. Yes.  
14 Q. What do you interpret this  
15 phrase to mean?  
16 A. Plug it in, drive pest out?  
17 Q. Correct.  
18 A. Yeah. This is the plug-in unit.  
19 So you plug into AC outlet. Meaning don't  
20 do any work. And then ultrasonic work use  
21 to drive pest out.  
22 Q. Drive pests out of a home or  
23 office?  
24 A. Of the area.  
25 Q. Of the area.

Page 57

15 (Pages 54 - 57)

## D. Feuerstein

1 A. Of area of room where pest  
2 repeller is.  
3 Q. So this phrase was not intended  
4 to mean that the repellers could drive  
5 pests out of a home or office?  
6 MR. WING: Object to form.  
7 A. It is. The repeller drive the  
8 pests out from the home.  
9 Q. Oh, so it means it drives pests  
10 out from the home?  
11 A. Right, right.  
12 Q. Okay, thank you.  
13 A. Right, but the thing -- that's  
14 why we do multiple packs, because each one  
15 is perfect for the average size of the  
16 room.  
17 Q. So the multipack, so drive pests  
18 out, means if you use --  
19 A. You put in multi rooms.  
20 Q. Let me just finish the question,  
21 please.  
22 The use of the multipack and  
23 that statement on it is intended to mean  
24 that if a consumer uses all of the  
25 repellers in this pack, they will be able

Page 58

1 to drive pests out of their home, correct?  
2 MR. WING: Object to form.  
3 A. Yes.  
4 Q. Okay, thank you.  
5 You see midway through the page,  
6 it says: Home and office use? Do you see  
7 that?  
8 A. Yes.  
9 Q. Who wrote that?  
10 A. My designer took it from the  
11 past artwork.  
12 Q. Who determined that these  
13 devices were suitable for home and office  
14 use?  
15 A. From our experience of  
16 manufacturing pest repellers.  
17 Q. So who made that determination?  
18 A. We took it from past artwork,  
19 our experience of manufacturing and how we  
20 do the packing in the past.  
21 Q. Do the pest repellers work in  
22 any other setting aside from home and  
23 office use?  
24 A. It should be.  
25 Q. Would they work in a warehouse?

Page 59

1 A. Depends how big's the warehouse.  
2 Q. Well, let's say you have  
3 multiple repellers.  
4 A. Then it should work in a  
5 warehouse.  
6 Q. What about a commercial setting,  
7 let's say, a commercial restaurant?  
8 MR. WING: Object to form.  
9 Q. Would they work in a restaurant  
10 setting?  
11 MR. WING: Object to form.  
12 A. Restaurant, I don't -- I don't  
13 know.  
14 Q. What about outdoors? Could the  
15 repellers work outdoors?  
16 MR. WING: Object to form.  
17 A. I don't know.  
18 Q. Do you see on the right-hand  
19 column of this page, there's a word, it  
20 says, all capitals, note, with a colon.  
21 Do you see that?  
22 A. No. Wait.  
23 Q. Do you see towards the  
24 right-hand side there is -- it says the  
25 words: LED indicator and LED lights?

Page 60

1 A. Yes, yes.  
2 Q. And below that, it says: Note.  
3 First sentence reads:  
4 Ultrasonic signals will lose intensity as  
5 it travels.  
6 Do you see that?  
7 A. Yes.  
8 Q. Who wrote that?  
9 A. My designer.  
10 Q. And was that also taken from  
11 previous packaging?  
12 A. Yes.  
13 Q. Who originally wrote that, then?  
14 A. I think the packaging we had for  
15 Sunbeam and First Alert.  
16 Q. Right. So who originally wrote  
17 that?  
18 A. I think it's -- I believe it's  
19 Team Product's -- they -- they wrote it.  
20 The company I work in the past who has the  
21 license.  
22 Q. I see. Did you independently  
23 verify this information?  
24 A. Yes.  
25 Q. So do you agree with this

Page 61



D. Feuerstein

1 statement that the ultrasonic signal will  
 2 lose intensity as it travels?  
 3 A. Yes.  
 4 Q. The next sentence reads: It is  
 5 also absorbed by soft objects such as  
 6 carpeting and is reflected by hard  
 7 surfaces such as furniture.  
 8 Do you see that?  
 9 A. Yes.  
 10 Q. And this was also taken from  
 11 previous packaging, correct?  
 12 A. Correct.  
 13 Q. And this was also originally  
 14 written by either First Alert or Sunbeam,  
 15 correct?  
 16 A. Yes.  
 17 Q. Do you agree with this  
 18 statement?  
 19 A. Yes.  
 20 Q. Have you independently verified  
 21 it?  
 22 A. Yes, we test it in a factory.  
 23 Yeah, we test -- our engineer constantly  
 24 do the testing.  
 25 Q. Can you -- I'm sorry, can you

Page 62

1 repeat what you just said?  
 2 A. We test -- we test this -- this  
 3 statement in a -- in a factory.  
 4 Q. Can you please elaborate on what  
 5 you mean by that?  
 6 A. We have the equipment. We test  
 7 behind the furniture. We tested in  
 8 different -- because, when it travel a big  
 9 piece of furniture, it will reduce or  
 10 block the ultrasonic. And we put the  
 11 statement here. And we did test, it did  
 12 lose the intensity.  
 13 Q. So when did you run this test?  
 14 A. We did this I think in the  
 15 beginning stage of our -- when we start  
 16 making pest repellers.  
 17 Q. Can you describe the tests that  
 18 you ran?  
 19 A. We have very good equipment of  
 20 testing decibel and ultrasonic. We have  
 21 computer equipment. So we did run tests  
 22 from different angles and if it's blocked,  
 23 we test behind the furniture. So we -- we  
 24 do understand -- that's why we put it  
 25 here, to remind the consumer.

Page 63

1 Q. Now, did you test the actual  
 2 repelling effects in those tests or you  
 3 tested the decibel levels?  
 4 A. The decibel levels.  
 5 Q. How about soft objects; did you  
 6 test that in-house?  
 7 A. I don't understand the question.  
 8 Q. It says here it is also absorbed  
 9 by soft objects such as carpeting?  
 10 A. Right. We also test even on  
 11 carpeting, it will be absorbed, yes.  
 12 Q. What kind of furniture did you  
 13 use in your testing?  
 14 A. I don't remember. I believe a  
 15 big piece of sulfur or maybe cabinets.  
 16 Q. So it might have been wood?  
 17 A. Right.  
 18 Q. Did you keep any sort of  
 19 documentation? Did you take any notes?  
 20 Did anyone take any notes when this  
 21 testing was conducted?  
 22 A. At that time, yes, they did take  
 23 note, and they send me the result.  
 24 Q. Would you still have that?  
 25 A. No. I have been changing my

Page 64

1 computer every year and I have so much  
 2 data, so I don't keep everything.  
 3 Q. Can you please describe the  
 4 tests you ran showing that it was absorbed  
 5 by soft objects such as carpeting?  
 6 A. We can test before and after  
 7 carpeting. With and without carpeting and  
 8 before and after the furniture. We  
 9 compare the decibel output result.  
 10 Q. So you placed carpeting on the  
 11 floor, and you placed the repeller near  
 12 the carpeting, and you found that the  
 13 carpeting absorbed --  
 14 A. Yes.  
 15 Q. -- the signals?  
 16 And would you suppose that might  
 17 extend to rugs, as well?  
 18 A. Yes, carpet and rug, the same  
 19 thing.  
 20 Q. What about beds? Beds are  
 21 another soft object, right?  
 22 A. Right.  
 23 Q. So you think a bed could  
 24 probably absorb the signals, as well?  
 25 A. Yes, it would block the signal.

Page 65

17 (Pages 62 - 65)



## D. Feuerstein

1 Q. What about if you had a lot of  
2 clothing; could that absorb the signal?  
3 A. I guess, yes, but we haven't  
4 tested clothing.  
5 Q. Understood. Do you have an  
6 understanding of what kind of materials  
7 could reflect the signal aside from wood  
8 and sulfur? Do you think metal would  
9 probably reflect it?  
10 A. Metal, yes.  
11 Q. What about hard plastic; do you  
12 think that might reflect it, as well?  
13 A. Maybe. I don't -- we didn't  
14 test that one.  
15 Q. Do you have carpeting in your  
16 house?  
17 A. Yes.  
18 Q. Do you have couches in your  
19 house?  
20 A. Yes.  
21 Q. Do you have beds in your house?  
22 A. Yes.  
23 Q. Would you suppose that most  
24 people have those things in their houses,  
25 as well?

Page 66

1 A. Yes.  
2 Q. Moving on. The next sentence  
3 reads: Ultrasonic signals cannot reach  
4 nesting or feeding places behind walls,  
5 under floors or within cracks.  
6 Do you see that?  
7 A. Yes.  
8 Q. And was this sentence also  
9 pulled from either First Alert or Sunbeam  
10 packaging?  
11 A. Yes.  
12 Q. Do you agree with this  
13 statement?  
14 A. Yes.  
15 Q. What basis do you have for  
16 agreeing with this statement?  
17 A. Based on few facts. Number one,  
18 ultrasonic is very directional. Number  
19 two, it discuss in the -- in the -- if  
20 it's blocked, or it's covered by some --  
21 doesn't matter it's wood or it's soft  
22 sulfur or metal, it might block some of  
23 the decibel emission.  
24 Q. So would the Bell + Howell  
25 devices be able to repel pests that are in

Page 67

1 nesting or feeding places behind walls,  
2 under floors or within cracks?  
3 A. I believe it will, but it  
4 depends on -- if the crack is behind the  
5 pest repeller, because it's very  
6 directional, then it won't be able to  
7 reach it.  
8 Q. Understood. So if a pest is not  
9 in the line of sound of a repeller, it  
10 can't work to repel the pest, right?  
11 A. Please say that again? Sorry.  
12 Q. Sure. So if a pest is not  
13 within the line of sound, right, the sound  
14 waves, that they are on the line of the  
15 sound waves --  
16 A. Right.  
17 Q. -- then the pest cannot be  
18 repelled? It can only be repelled if it's  
19 within the line of the sound waves,  
20 correct?  
21 A. Possible, yes.  
22 Q. So if ultrasonic signals can't  
23 reach these nesting and feeding places  
24 behind walls, under floors and within  
25 cracks, then the pests are only repelled

Page 68

1 if the ultrasonic signals can reach them,  
2 correct?  
3 A. Yes.  
4 Q. So the repellents cannot repel  
5 pests from these places because the  
6 ultrasonic signals cannot reach there,  
7 correct?  
8 A. Correct.  
9 Q. Now, would you agree that all  
10 structures have nesting or feeding places  
11 behind walls, under floors and within  
12 cracks?  
13 MR. WING: Object to form.  
14 A. I don't understand the question.  
15 Say that again.  
16 Q. Sure. Let me actually make it  
17 simpler.  
18 Would you agree that all  
19 structures have spaces behind walls?  
20 MR. WING: Object to form.  
21 A. All spaces have -- I don't know.  
22 Q. Would you agree that every  
23 structure that has a floor has a space  
24 that is under the floor?  
25 MR. WING: Object to form.

Page 69

D. Feuerstein

1 A. Could be, yeah.  
 2 Q. Would you agree that nearly all  
 3 structures have cracks somewhere, in the  
 4 floor, in the wall, et cetera, that pests  
 5 can get in and out of?  
 6 MR. WING: Object to form.  
 7 A. I cannot say that. Maybe.  
 8 Maybe yes, maybe not.  
 9 Q. Do you know whether ants  
 10 typically dwell out in the open, or  
 11 whether they typically go to these spaces  
 12 behind walls, within cracks, underneath  
 13 the floor?  
 14 MR. WING: Object to form.  
 15 A. They could be anywhere. In the  
 16 cracks, outside the cracks.  
 17 Q. And what about mice; the same  
 18 thing, right?  
 19 MR. WING: Object to form.  
 20 A. It could be -- yeah, I can't  
 21 tell. It could be anywhere, too.  
 22 Q. Same question for rats and  
 23 roaches?  
 24 MR. WING: Objection.  
 25 A. Yes.

Page 70

1 Q. That, as well, correct?  
 2 A. Yeah, correct.  
 3 Q. Because of that, would you agree  
 4 that by themselves, the pest repellents are  
 5 insufficient to rid an entire home of  
 6 pests if it cannot reach these places  
 7 where these pests might live?  
 8 MR. WING: Object to form.  
 9 A. Depends, it's within the reach  
 10 of the ultrasonic sound wave.  
 11 Q. I'm sorry, can you repeat that,  
 12 please?  
 13 A. Depends on how big is the home  
 14 and if it's out of reach of the ultrasonic  
 15 sound wave.  
 16 Q. So assuming that a home has a  
 17 space under the floor, right? Let's  
 18 assume a home has that?  
 19 A. Could be different floors.  
 20 Q. Right. Could be one floor,  
 21 could be many floors?  
 22 A. Right.  
 23 Q. If a home has a space under the  
 24 floor, an ultrasonic signal cannot reach  
 25 there, right?

Page 71

1 A. If it's multiple floors, yes.  
 2 Q. Even one floor, the ultrasonic  
 3 signals can't reach underneath the floor  
 4 if the floor is made of wood, correct?  
 5 A. Yes.  
 6 Q. So assuming that a home has a  
 7 space under the floor, do you agree that  
 8 the ultrasonic, that the Bell + Howell  
 9 pest repellents cannot rid that home of  
 10 pests completely if it cannot reach that  
 11 space?  
 12 A. We have different models. We  
 13 also have -- this is ultrasonic. We also  
 14 have models that can reach much bigger  
 15 area.  
 16 Q. Now, do you have any models of  
 17 the Bell + Howell pest repellents that can  
 18 reach spaces underneath floors?  
 19 A. Through the wires, yes. We have  
 20 electromagnetic pest repeller.  
 21 Q. How many repellents have  
 22 electromagnetic technology?  
 23 A. A few. I don't remember. Three  
 24 or five. Three or four?  
 25 Q. Can you identify which, if any,

Page 72

1 in Exhibit 15?  
 2 A. Yes. 6642. 6643. These are  
 3 the two -- same model, but different  
 4 packaging.  
 5 Q. Understood.  
 6 A. 6650. 6651. 6652. 6658.  
 7 6659. That's it.  
 8 Q. Thank you. We will come back to  
 9 those in a moment, but let's put those  
 10 aside for now and let's discuss the models  
 11 that solely have ultrasonic technology.  
 12 A. Okay.  
 13 Q. Assuming that a house has a  
 14 space that's underneath the floors, would  
 15 you agree that the Bell + Howell pest  
 16 repellents by themselves cannot rid that  
 17 house of pests?  
 18 MR. WING: Object to form.  
 19 A. I don't know.  
 20 Q. So you think they might be  
 21 sufficient to rid that house of pests?  
 22 MR. WING: Object to form.  
 23 A. I don't know. I don't see the  
 24 house structure, so I cannot say, I cannot  
 25 comment.

Page 73

19 (Pages 70 - 73)



## D. Feuerstein

1 Q. Have any of the Bell + Howell  
2 pest repellents, have you ever tested them  
3 inside someone's house?  
4 A. Yes. We did test in a real  
5 house.  
6 Q. In whose house?  
7 A. In China, a real apartment  
8 house.  
9 Q. Who conducted these tests?  
10 A. We have done so many different  
11 testing. This one is done by Qmann. It's  
12 a quality control company.  
13 Q. When was that done?  
14 A. 2011 or twelve.  
15 Q. Whose house was it?  
16 A. That's in China, so I don't know  
17 whose house is that.  
18 Q. Did you retain documentation of  
19 that test?  
20 A. Yes.  
21 Q. Did you produce that  
22 documentation?  
23 A. I think, yes. What do you mean  
24 produce? You mean provide?  
25 Q. Yes.

Page 74

1 A. Yes.  
2 Q. We can come back to that.  
3 Assuming that a house or an  
4 office has that space that's behind walls,  
5 would you agree that Bell + Howell pest  
6 repellents are insufficient to rid that  
7 whole home or office of pests assuming  
8 that it has that space?  
9 MR. WING: Object to form.  
10 A. I can't answer that.  
11 Q. Last question: Assuming that  
12 there are cracks in that space somewhere,  
13 whether it be in the floor, in the wall,  
14 would you agree that the Bell + Howell  
15 pest repellents are insufficient to rid  
16 that whole space?  
17 MR. WING: Object to form.  
18 A. I can't answer that.  
19 Q. Why can't you answer that?  
20 A. Because I don't see the crack,  
21 so you might be able to. I don't know the  
22 material of the wall. You might be able  
23 to pass through. I don't know.  
24 Q. So depending on what the wall  
25 looks like and what it's built on, it

Page 75

1 might be able to or might not be able to?  
2 A. Possible.  
3 Q. What material do you think a  
4 wall could be made of in which case it  
5 would be able to?  
6 MR. WING: Object to form.  
7 A. I don't know.  
8 Q. Can you list a single material  
9 you think a wall might be made of that it  
10 could actually pass through?  
11 MR. WING: Object to form.  
12 A. Don't know.  
13 Q. And the same question for the  
14 floor?  
15 A. Yes.  
16 Q. Same answer?  
17 MR. WING: Same objection.  
18 A. Yeah.  
19 Q. Thank you. We'll go for a  
20 little bit longer and then we will take a  
21 break, because I know we have been going  
22 for awhile. Let me just finish this line  
23 of questioning.  
24 A. Sure.  
25 Q. So it also says: In some cases,

Page 76

1 over time, certain rodents might be  
2 accustomed to ultrasonic signals, some may  
3 return to their feeding or nesting areas  
4 even in the presence of an ultrasonic  
5 product.  
6 MR. WING: We're looking at  
7 666?  
8 MR. KOPEL: Yes, correct.  
9 MR. WING: I know we jumped  
10 around, so.  
11 Q. Do you see that?  
12 A. Yes.  
13 Q. Did that also come from packing  
14 of either First Alert or Sunbeam?  
15 A. Yes.  
16 Q. And you also don't know exactly  
17 who wrote that sentence, correct?  
18 A. No. I think we provided a copy.  
19 Q. Do you agree with that?  
20 A. Yes.  
21 Q. Who made the decision to include  
22 this passage on the Bell + Howell  
23 packaging?  
24 A. My designer -- I asked my  
25 designer to provide -- to design the

Page 77



D. Feuerstein

1 artwork based on the artwork we have in  
2 the past.  
3 Q. I see. Do you know why your  
4 designer or anyone else decided to include  
5 this on the packaging?  
6 A. Why? Because he was instructed  
7 to refer to previous packaging.  
8 Q. Understood.  
9 What basis do you have for your  
10 agreement with this passage?  
11 A. From experiences.  
12 Q. Can you please describe the  
13 experience that led you to agree with this  
14 passage?  
15 A. I have discussed this with my  
16 previous customer about this term, about  
17 this situation.  
18 Q. Which customer?  
19 A. People in Team Products.  
20 Q. So which customer was this?  
21 A. The name of the customer? I  
22 don't remember. There are several people  
23 I work with.  
24 Q. Do you know if it was an  
25 individual or if it was a business? Was

Page 78

1 it a big customer or a small customer?  
2 A. You mean -- this is the -- we  
3 are talking about Team Product. That  
4 company.  
5 Q. Right.  
6 A. I don't remember who's the  
7 person there I have spoken with about this  
8 term.  
9 Q. Oh, okay. Let me take a step  
10 back.  
11 So when you said you spoke with  
12 a customer, you don't mean a consumer who  
13 bought the product?  
14 A. No, no, no. I mean my customer  
15 who buy the product, who is importer for  
16 the product.  
17 Q. So somebody at teamwork told you  
18 that this passage was correct?  
19 A. Mm-hm.  
20 THE COURT REPORTER: Yes or no?  
21 THE WITNESS: Yes.  
22 Q. Who was that?  
23 A. I don't remember the name, but  
24 normally I went to the office and we have  
25 meeting with several people, so I don't

Page 79

1 remember who.  
2 Q. Have you ever tested this?  
3 A. Yes. We test in China all the  
4 time.  
5 Q. And you have seen this to be  
6 correct, that this passage --  
7 A. Yes.  
8 Q. -- to be correct?  
9 A. Yes.  
10 Q. Can you please describe the  
11 testing you have seen which shows this  
12 passage is correct?  
13 A. We always do live testing, so we  
14 always plug-in pest repellents in different  
15 areas. We will mark down the date when we  
16 begin the testing, and we observe the  
17 result.  
18 Q. So when did you do this  
19 particular testing?  
20 A. I think this is the beginning of  
21 when we start beginning manufacturing pest  
22 repeller.  
23 Q. And can you please describe what  
24 the testing was and what the results were?  
25 A. It says here. This script is

Page 80

1 too small for me to read.  
2 Q. I apologize. I had hoped for a  
3 better copy, but let me see if there is  
4 another page on this exhibit, actually,  
5 that has it clearer for you.  
6 A. Very small.  
7 Q. So if you see the second page,  
8 and that is Bates number BIII, LLC 006641.  
9 I think it's -- the formatting may be  
10 different, but I think it's the exact same  
11 sentence here. And it's on the right-hand  
12 side.  
13 A. Yes.  
14 Q. And the sentence begins, in some  
15 cases.  
16 Can you read that one better?  
17 A. Yes.  
18 Q. Okay.  
19 A. In some cases, right?  
20 Q. Yes.  
21 A. Yes. So --  
22 Q. Okay. So my question was, just  
23 to refresh your recollection, you said  
24 that you did testing that confirmed that  
25 this was true?

Page 81

21 (Pages 78 - 81)

## D. Feuerstein

1 A. Yes.  
 2 Q. And I asked you to please  
 3 describe that testing and the results of  
 4 that testing.  
 5 A. We do -- we -- we -- our  
 6 engineering department, we plug-in the  
 7 pest repeller and then we see the read --  
 8 my company after a few weeks, a few  
 9 months, use the ultrasonic, so through  
 10 that, we will change the location of pest  
 11 repeller.  
 12 Q. I see. So when you say you did  
 13 this testing, this wasn't done by any  
 14 professional lab; this was done in-house  
 15 by Intellitec, correct?  
 16 A. Yes.  
 17 Q. And it was done in Intellitec's  
 18 China --  
 19 A. In China.  
 20 Q. -- factory?  
 21 A. For this particular test, yes.  
 22 Q. And was there a pest problem  
 23 before they were plugged in in the  
 24 factory?  
 25 A. Was yes, mm-hm.

Page 82

1 Q. And then pest repellers were  
 2 plugged in and you saw some effectiveness  
 3 for a time.  
 4 A. Yes.  
 5 Q. But then you saw the pests  
 6 started to return, correct?  
 7 A. Maybe, but not hundred percent,  
 8 mm-hm.  
 9 Q. What do you mean?  
 10 A. For some, we were doing  
 11 different tests. Some you might see the  
 12 pests again, where the pests were nearby,  
 13 but some we don't see the problem.  
 14 Q. Which pests? Was this something  
 15 that was seen across the spectrum of ants,  
 16 mice, rats, spiders and roaches?  
 17 A. Yes.  
 18 Q. How long of a period did you see  
 19 it took until these pests began returning?  
 20 A. After three months.  
 21 Q. So it worked for, approximately,  
 22 three months, and then the pests began  
 23 returning despite the fact that they were  
 24 still plugged in?  
 25 A. Right. But then we switched the

Page 83

1 pest repeller and it's okay again.  
 2 Switched the location of the pest  
 3 repeller.  
 4 Q. Did you take readings to ensure  
 5 that the repellers were still emitting  
 6 ultrasonic frequencies --  
 7 A. Yes.  
 8 Q. -- at the end of three months?  
 9 A. Yes.  
 10 Q. And they were still emitting the  
 11 same frequencies just like the first day  
 12 you plugged them in, right?  
 13 A. Right.  
 14 Q. So you took out those repellers.  
 15 Did you replace them with new  
 16 repellers, or did you replace them with  
 17 the same repeller?  
 18 A. Same repeller.  
 19 Q. And then you plugged them in in  
 20 different places?  
 21 A. Mm-hm.  
 22 Q. And you saw a reduction of pests  
 23 in those new places where you plugged them  
 24 in, correct?  
 25 A. Yes.

Page 84

1 Q. Do you see here, it starts: In  
 2 some cases? That's how the sentence  
 3 starts: In some cases.  
 4 A. Mm-hm.  
 5 MR. WING: Yes?  
 6 Q. Can you please answer that yes  
 7 or no? "Mm-hm" is not good enough for the  
 8 court reporter.  
 9 A. In some cases, yes, sorry.  
 10 Q. Can you explain what that means?  
 11 A. It means sometimes the pests  
 12 still were after three months, sometimes  
 13 you see the pest may return. Then  
 14 people -- my engineer, we know to change,  
 15 to put in a different plug.  
 16 MR. KOPEL: Okay. Let's take  
 17 a break right now, please.  
 18 THE VIDEOGRAPHER: We are off  
 19 the record, approximately, 12:30 p.m.  
 20 (Whereupon, a luncheon recess  
 21 was taken at this time.)  
 22  
 23  
 24  
 25

Page 85



## D. Feuerstein

1 (Whereupon, after a luncheon recess was  
2 taken, the deposition continued as  
3 follows:)

4  
5 AFTERNOON SESSION

6  
7  
8 THE VIDEOGRAPHER: This is  
9 the beginning of file number two. We  
10 are going back on the record at,  
11 approximately, 1:10 p.m.

12 MR. KOPEL: I would like to  
13 ask the court reporter to please mark  
14 as Exhibit 16 a copy of the United  
15 States Design Patent Application.  
16 (Plaintiffs' Exhibit 16 was  
17 marked for identification, as of this  
18 date.)

19 BY MR. KOPEL:

20 Q. Ms. Feuerstein, do you have  
21 Exhibit 16?

22 A. Yes, I do.

23 Q. Have you seen it before? Have  
24 you seen it before?

25 A. Yes.

Page 86

1 Q. What is it?  
2 A. It's a design patent document  
3 for one of my pest repellents.  
4 Q. Excuse me, I think I said  
5 earlier that this is an application. This  
6 isn't actually an application. This has  
7 been granted, right?  
8 A. Yeah, we have a few design  
9 patents.

10 Q. Can you please tell me how many  
11 patents you have for the Bell + Howell  
12 pest repellents?

13 A. I don't remember precisely. I  
14 would say about two to four.

15 Q. And that's all pest repellents,  
16 all together, not just Bell + Howell?

17 A. We have design patent when we  
18 work for Sunbeam and First Alert, but that  
19 was back to fifteen years ago, maybe  
20 longer than that, so I don't remember.

21 Q. Okay.

22 A. But those patents are not for  
23 the US. Those were for -- I believe it  
24 was for China. And this is a US patent.

25 Q. Thank you.

Page 87

1 And do you have Chinese patents  
2 for pest repellents, the Bell + Howell pest  
3 repellents, as well?

4 A. No.

5 Q. Do you see, it says: Inventor:  
6 Debbie Feuerstein?

7 A. Yes.

8 Q. Is that correct?

9 A. Correct.

10 Q. And you consider yourself the  
11 inventor of the Bell + Howell pest  
12 repellents, correct?

13 A. Yes.

14 Q. Do you see here references  
15 cited, it says, US Patent documents, and  
16 there are a list of patent documents  
17 there?

18 A. Mm-hm, yes.

19 Q. Do you have a recollection of  
20 what these are?

21 A. You see there are a few Levine  
22 Design Patent 2002, 2003. I did -- that  
23 represents Levine Team Products -- Levine,  
24 its the Levine family who owns Team  
25 Products, the company I worked before, but

Page 88

1 I was not aware of this patent. Maybe --  
2 I don't remember, but I believe it's the  
3 Levine family.

4 Q. Where is Team Products located?

5 A. Parsippany, New Jersey.

6 Q. Okay, thank you.

7 You can put that aside, please.

8 A. (Complying.)

9 Q. Did you speak with Mr. Mishan  
10 over the break at all?

11 A. Very briefly. We just talk  
12 about what to eat for lunch.

13 Q. Did you discuss your testimony  
14 today at all with Mr. Mishan?

15 A. He -- no, we did not discuss.

16 Q. He never said anything to you  
17 about it either?

18 A. He said I did okay, that's it.  
19 That was the only thing we talk about.

20 Q. What did you do to prepare for  
21 today's deposition?

22 A. I did not really prepare  
23 anything, because I have pretty good  
24 memory. And I probably just checked the  
25 test report. We have so many test report

Page 89

## D. Feuerstein

1 through the years, so I double checked  
 2 yesterday which year did we do which test  
 3 yesterday.  
 4 Q. So to your knowledge, have you  
 5 found any additional testing --  
 6 A. Yes, I did. I did find two test  
 7 reports we did 2008 and 2009.  
 8 Q. And I believe -- and you gave  
 9 those to --  
 10 A. I gave them to Scott yesterday,  
 11 yes.  
 12 Q. Aside from those, are you aware  
 13 of any additional testing that hasn't been  
 14 produced to us in this case?  
 15 A. No, I believe everything is  
 16 there.  
 17 Q. Did you discuss -- in  
 18 preparation for your deposition, did you  
 19 have any conversation with anyone about  
 20 the deposition?  
 21 A. We did have some conversation.  
 22 Q. Who is "we"?  
 23 A. Me and Scott mainly and  
 24 Mr. Mishan was -- was part of it, the  
 25 discussion.

Page 90

1 Q. Was this on the phone or in  
 2 person?  
 3 A. In person.  
 4 Q. When was this?  
 5 A. Yesterday.  
 6 Q. Where was this?  
 7 A. At Mr. Mishan's office.  
 8 Q. Was anyone else present?  
 9 A. No.  
 10 Q. Was anyone on the phone?  
 11 A. No.  
 12 Q. How long did you guys speak for?  
 13 A. A couple hours, three hours.  
 14 Q. Do you remember the substance of  
 15 what was discussed?  
 16 A. Just -- just -- mostly review of  
 17 the test report we have had in the past.  
 18 Q. Did Mr. Mishan give you any  
 19 advice about today's deposition?  
 20 A. No.  
 21 Q. Did Mr. Wing give you any advice  
 22 about today's deposition?  
 23 A. No.  
 24 MR. WING: I'm going to  
 25 object. It's attorney-client

Page 91

1 privilege.  
 2 A. No.  
 3 Q. What did you guys discuss about  
 4 the tests?  
 5 MR. WING: Same objection.  
 6 I'm going to instruct her not  
 7 to answer.  
 8 A. We reviewed --  
 9 MR. WING: Ms. Feuerstein, the  
 10 substance of our discussions  
 11 yesterday, I would say, was  
 12 attorney-client privilege.  
 13 Q. Mr. Mishan was present for this  
 14 discussion, right?  
 15 A. Yes.  
 16 MR. KOPEL: So she is not a  
 17 Defendant in the case, right?  
 18 MR. WING: But I am  
 19 representing her for purposes of the  
 20 deposition.  
 21 MR. KOPEL: Right. But you  
 22 are representing her, but Mr. Mishan  
 23 broke that privilege; did he not?  
 24 MR. WING: I would dispute  
 25 that. That my other client, that our

Page 92

1 co-representation would break the  
 2 attorney-client privilege.  
 3 MR. KOPEL: We might have to  
 4 revisit that, because I'm not sure  
 5 that's correct. For the record, I  
 6 don't think that's an appropriate  
 7 instruction not to answer. Sorry, he  
 8 just grabbing a document I thought we  
 9 had.  
 10 MR. WING: That's fine. So  
 11 off the record for thirty seconds or  
 12 whatever?  
 13 MR. KOPEL: We can go off the  
 14 record.  
 15 THE VIDEOGRAPHER: We are off  
 16 the record at 1:19 p.m.  
 17 (Whereupon, a discussion was  
 18 held off the record.)  
 19 THE VIDEOGRAPHER: This is  
 20 the beginning of file three. We are  
 21 going back on the record at 1:19 p.m.  
 22 BY MR. KOPEL:  
 23 Q. I am actually going to hand the  
 24 witness a document which was previously  
 25 marked as Exhibit 4.

Page 93



D. Feuerstein

1 MR. KOPEL: Can I ask the  
2 court reporter, would you mind  
3 re-marking this as Exhibit 4, because  
4 I don't have the originally marked  
5 exhibit?  
6 (Plaintiffs' Exhibit 4 was  
7 remarked for identification, as of  
8 this date.)  
9 Q. Are you ready?  
10 A. Yes.  
11 Q. Do you have Exhibit 4?  
12 A. Yes.  
13 Q. Have you seen it before?  
14 A. Yes.  
15 Q. What is it?  
16 A. This is the instruction manual  
17 for one of my -- our pest repellents.  
18 Q. I suppose this has been updated  
19 since it looked like this, correct?  
20 A. Because I'm not the one who is  
21 in charge of the owner's manual with my  
22 factory, Mr. Deng is doing it, so I am not  
23 sure this is the most updated version.  
24 Q. So Mr. Deng is the most involved  
25 person --

Page 94

1 A. Yes.  
2 Q. Now, that statement was on the  
3 original manual, correct, first; either  
4 Sunbeam or First Alert, correct?  
5 A. Correct.  
6 Q. Do you agree with this  
7 statement?  
8 A. Yes.  
9 Q. Why do you agree with it?  
10 A. Because food and smell with  
11 attract pests.  
12 Q. So if there is food present, it  
13 could cause the repellents to not properly  
14 repel the pests, correct?  
15 A. Possible --  
16 MR. WING: Object to form.  
17 A. -- but not --  
18 MR. WING: Go ahead.  
19 Q. You can answer.  
20 A. Possible, but not -- we cannot  
21 say for sure.  
22 Q. Have you tested this?  
23 A. Yes, in China.  
24 Q. Can you please describe the  
25 testing and the results?

Page 96

1 A. With Daniel, in China, yes.  
2 Q. Did Mr. Deng draft this himself,  
3 or did he take it from somewhere else?  
4 A. He take it from previous  
5 manuals.  
6 Q. Was that from Sunbeam or First  
7 Alert?  
8 A. Yes.  
9 Q. Do you think what, if anything,  
10 Mr. Deng added to this sheet that might  
11 not have appeared on the original manual?  
12 A. The -- because all or product  
13 has to be approved by UL, so I'm not sure  
14 if UL has caution in the back. This  
15 manual has to be approved and sometimes we  
16 might revise it by Underwriter Laboratory,  
17 so I'm not sure the caution is from Deng.  
18 I believe the caution is from UL.  
19 Q. I see. Anything else?  
20 A. No.  
21 Q. Do you see on the bottom left  
22 corner, it states: Make sure that all  
23 food away. The smell of food attracts  
24 pests and will decrease the efficiency of  
25 ultrasonic pest repeller?

Page 95

1 A. They -- when we tested lifespan  
2 and efficiency of the test and we did try  
3 to put some food.  
4 Q. What food did you put?  
5 A. That, I don't know, because I  
6 did not contact -- I did not do the test  
7 myself.  
8 Q. And was this for all the listed  
9 pests; in other words, ants, spiders,  
10 roaches, mice and rats?  
11 A. Yes.  
12 Q. And the results of the tests  
13 were that that despite the fact that the  
14 repellents were plugged in, the presence of  
15 food still attracted the pests, even at  
16 the presence of the repellents, correct?  
17 A. Might be, but not hundred  
18 percent.  
19 Q. Can you explain what you mean?  
20 A. Sometimes they would put the  
21 food and sometimes the pests came out,  
22 sometimes they don't. So it's not 100%  
23 that when food's there, it's not working.  
24 Q. Do you know what the difference  
25 was between the times they came out and

Page 97

25 (Pages 94 - 97)

D. Feuerstein

1 the times they didn't; did they use  
 2 different types of food, perhaps?  
 3 A. I don't remember.  
 4 Q. Who ran these tests?  
 5 A. My engineering department in  
 6 China.  
 7 Q. What was the name of the  
 8 individual?  
 9 A. This is go back to early stage,  
 10 so I don't remember who ran the test.  
 11 Q. Were any documents produced as a  
 12 result of those tests? Were the results  
 13 written down anywhere?  
 14 A. At that time, yes.  
 15 Q. But you don't have those  
 16 anymore?  
 17 A. I don't have the copy.  
 18 Q. This was done in the Intellitec  
 19 factory in China?  
 20 A. Yeah, in our facility.  
 21 Q. Do you know of any disparity in  
 22 the results between different types of  
 23 pests in this test?  
 24 A. No, I don't remember.  
 25 Q. Do you see, it says right

Page 98

1 underneath there, repair any openings in  
 2 your home where pests can get in?  
 3 A. Yes.  
 4 Q. And this also appeared on a  
 5 previous manual for another product,  
 6 correct?  
 7 A. Correct.  
 8 Q. Do you agree with this?  
 9 A. Agree, yes.  
 10 Q. What is the basis for your  
 11 agreement?  
 12 A. From my experience, because in  
 13 my home, if there's a crack, especially in  
 14 wintertime, pests might come in, you know.  
 15 Q. So even in the presence of a  
 16 properly functioning repeller, if there  
 17 are openings in the home, pests can still  
 18 come in?  
 19 A. Right. Depends how big is the  
 20 home, and where is the pest repeller.  
 21 Q. Can you please elaborate on  
 22 that?  
 23 A. Our pest repeller has -- it  
 24 works for average American-size room. So  
 25 if the home is like 10,000, 5,000-square

Page 99

1 foot, so it really depends on how far is  
 2 it from the pest repeller.  
 3 Q. So you are saying that if there  
 4 are pest repellents in each room in a  
 5 house, that this instruction is not  
 6 necessary, you no longer have to repair  
 7 the openings in the home?  
 8 MR. WING: Object to form.  
 9 A. I can't say that.  
 10 Q. Would it still be necessary?  
 11 A. Necessary for?  
 12 Q. To repair the openings in the  
 13 home?  
 14 MR. WING: Object to form.  
 15 Q. Do you need me to rephrase the  
 16 question or?  
 17 A. Mm-hm, yes, please.  
 18 Q. So as I understand it, you just  
 19 testified that pests can get into openings  
 20 in the home if they are not within reach  
 21 of a repeller?  
 22 A. Correct.  
 23 Q. Because a repeller is made to  
 24 cover a standard American-size room?  
 25 A. Yes.

Page 100

1 Q. So if there is an opening  
 2 outside the reach of a repeller, then  
 3 pests can get in?  
 4 A. Correct, yes.  
 5 Q. What if there is a repeller in  
 6 every room of the house; is this  
 7 instruction still necessary --  
 8 MR. WING: Object to form.  
 9 Q. -- to repair openings in the  
 10 home?  
 11 A. It will help.  
 12 Q. So is it necessary?  
 13 MR. WING: Same objection.  
 14 A. I think it will help to increase  
 15 the efficiency.  
 16 Q. This instruction, was this ever  
 17 tested by Intellitec?  
 18 A. What, repair the home?  
 19 Q. Correct.  
 20 A. No, not this one.  
 21 Q. Okay, thank you. You can put  
 22 that aside, please.  
 23 A. (Complying.)  
 24 Q. Which third parties have you  
 25 utilized to test the repellents?

Page 101

26 (Pages 98 - 101)



## D. Feuerstein

1 A. All through the years?  
 2 Q. Yes.  
 3 A. The earliest one is Beijing  
 4 University, the agriculture department.  
 5 Q. I'm sorry to jump in. And but  
 6 we no longer have documentation of that  
 7 test, correct?  
 8 A. No, we no longer have  
 9 documentation.  
 10 Q. Okay.  
 11 A. Number two is SGS, in Taiwan.  
 12 We did two tests with SGS in Taiwan. Then  
 13 in Qmann, the quality company, quality  
 14 control company, we did two tests with  
 15 them in -- I don't remember precisely, I  
 16 believe it's 2011.  
 17 Q. And were those the house tests  
 18 that you were referring to?  
 19 A. Yeah, that's the house test.  
 20 And then we did with SGS in  
 21 China. We do several testing with SGS in  
 22 China. And we do two tests with Intertek  
 23 and we did one test with CTO lab. So they  
 24 are professional -- SGS and Intertek are  
 25 the two largest laboratories in the world.

Page 102

1 Q. What about Certified Testing  
 2 Service? Does that ring a bell?  
 3 A. What about certified testing?  
 4 Q. Certified Testing Service?  
 5 A. Oh, yes, the CTO, right? Sorry,  
 6 I don't know their full name. I know the  
 7 initials, CTO.  
 8 Q. Are they affiliated with STS?  
 9 A. No. They are all independent  
 10 companies.  
 11 Q. You can tell me if, you know,  
 12 you need to see individual tests for this  
 13 question, but can you tell me: Where were  
 14 these tests performed?  
 15 A. In different laboratories.  
 16 Q. Were any of the tests that were  
 17 supervised by these laboratories, were  
 18 they performed in the Intellitec factory  
 19 in China?  
 20 A. I don't recall. Not inside our  
 21 factory, because during the testing, the  
 22 smell, they're horrible. This is a really  
 23 bad smell. And the testing lasts several  
 24 days, but the preparation might last  
 25 several weeks, so it's not ethical in

Page 103

1 hygiene not to do inside of factory.  
 2 Q. Who typically writes the  
 3 protocols for these tests?  
 4 A. Some of the protocol, we took it  
 5 from -- I remember the protocol from the  
 6 previous testing we have with SG in Taiwan  
 7 and earlier on in Beijing University. And  
 8 the chamber, the chamber design we have  
 9 later on, I actually got the -- we got the  
 10 proposal from Michigan University in 2011,  
 11 they proposed the size of chamber and the  
 12 curve tunnel because ultrasonic cannot  
 13 travel through curve tunnel. So actually  
 14 the size of chamber was based on Michigan  
 15 University's recommendation.  
 16 Q. So was this a proposal made  
 17 directly to Intellitec from Michigan  
 18 University?  
 19 A. Yes.  
 20 Q. Did Michigan University ever  
 21 carry out any tests?  
 22 A. No, they did not. I guess they  
 23 realized the difficulty of the testing.  
 24 They did not even give us a quote.  
 25 Q. What do you mean by the

Page 104

1 difficulty of the testing?  
 2 A. Just to keep the pests alive  
 3 through several weeks, they require a  
 4 special technician to carry on, to keep  
 5 the test alive. And also the smell, the  
 6 hygiene and -- so they did give us a  
 7 proposal, but they did not give us a  
 8 quote. So we took the proposal and we  
 9 combined a few tests and we wrote a very  
 10 nice -- a very thorough test protocol at  
 11 the end of 2011.  
 12 Q. When you say that we wrote a  
 13 thorough test protocol --  
 14 A. Me.  
 15 Q. You wrote that?  
 16 A. Me, I -- I wrote that.  
 17 Q. The chambers that were utilized  
 18 throughout the tests, were they reused  
 19 between tests?  
 20 A. No. Because the pests we buy,  
 21 normally we need the new chamber almost  
 22 for every new test because they won't  
 23 survive, the chamber. They bite, they eat  
 24 and it's very disgusting, so we don't  
 25 reuse the testing. But the construction,

Page 105

## D. Feuerstein

1 the design is the same for the last few  
2 tests.  
3 Q. Have you tested other products  
4 at these labs that we just discussed?  
5 A. All the products?  
6 Q. Other products, aside from pest  
7 repellers.  
8 A. Yes. My company does a  
9 substantial amount of testing for products  
10 every year.  
11 Q. With SGS?  
12 A. With different lab. Depends on  
13 which lab. We do with different  
14 laboratory. Depends on what's their  
15 specialty. Depends on what type of  
16 testing.  
17 Q. Who selected the insects to be  
18 used in the tests? Who supplied the  
19 insects?  
20 A. We have a pest supply company to  
21 supply the insect. Some of the rats, we  
22 actually called, because the black one is  
23 hard to get now.  
24 Q. The black rat?  
25 A. Yeah, the black rat, yeah.

Page 106

1 Q. Who selected the species that  
2 were being tested in each test?  
3 A. We test different species  
4 because all the test reports you could see  
5 the pictures of the pest. So they are all  
6 different. It really depends on the  
7 season. Depends on what can we get. And  
8 so we test different species.  
9 Q. Who selected which species were  
10 tested in each instance; was that part of  
11 the protocol?  
12 A. In the protocol, we did not  
13 specify any special species. It really  
14 depends on what we can get.  
15 Q. And the pests were supplied  
16 directly to Intellitree, correct?  
17 A. Yes.  
18 Q. And the design, in terms of the  
19 size of the chambers used, was that also  
20 recommended by the University of Michigan?  
21 A. Yes.  
22 Q. Have you ever tested the  
23 repellers in an office environment?  
24 A. Not for the pest, not for the  
25 efficiency. For the function, yes, we do.

Page 107

1 Q. Understood.  
2 A. Efficient to everything with rat  
3 and mice and pest, normally we don't do in  
4 the office because just for the hygiene of  
5 the employees, we don't do that in the  
6 factory. The smell's really bad. Because  
7 the test is a long testing, it lasts for  
8 several weeks. The testing is  
9 eleven days, but preparation, before and  
10 after, you need extra days, so...  
11 Q. How do you select the term of  
12 eleven days?  
13 A. The previous testing, initial  
14 testing we have, I think it's -- I don't  
15 remember it's five days or seven days, but  
16 we want to see how the pest react  
17 before -- post -- pre and post ultrasonic.  
18 So we want to compare the difference under  
19 influence of ultrasonic.  
20 Q. Can you explain just briefly why  
21 it's important to have a pretest period  
22 where the repeller is not on?  
23 A. So then we want to see when you  
24 turn on and before it was turned on and  
25 after you turn off, we want to see how the

Page 108

1 pests react so while testing shows the  
2 activity, including where they move,  
3 including the water and for conception.  
4 Q. So if, for instance, you might  
5 see a big disparity between the chambers  
6 pretesting, right, so that might suggest  
7 that there might be some reason other than  
8 the repellers that the pests prefer one  
9 chamber over the other, correct?  
10 A. Yeah, I don't know.  
11 Q. Do you understand the question?  
12 A. No, can you say it?  
13 Q. Okay. Would you agree that the  
14 purpose of pretesting is to see whether  
15 the pests have a preference for one  
16 chamber over the other in the absence of a  
17 pest repeller?  
18 A. Correct, yes.  
19 Q. And if there is a preference for  
20 one chamber over the other in the absence  
21 of a pest repeller, that might suggest  
22 that the results of the test, even in  
23 presence of a pest repeller, would be  
24 called into question, correct?  
25 MR. WING: Object. Object to

Page 109

28 (Pages 106 - 109)



D. Feuerstein

1 form.  
 2 A. Sorry, I don't quite 100%  
 3 understand the question.  
 4 Q. Sure, it's a complicated  
 5 question.  
 6 Would you agree if the pretest  
 7 period -- let me use a more concrete  
 8 example, so it's easier to understand.  
 9 Let's say you have chamber A and chamber B  
 10 and let's say the repeller is in chamber  
 11 A, all right?  
 12 A. Yes.  
 13 Q. So in the pretest periods before  
 14 the repeller is turned on, let's say all  
 15 the pests that you are testing, they go to  
 16 chamber B.  
 17 A. Mm-hm.  
 18 Q. So that might suggest that they  
 19 prefer chamber B for reasons entirely  
 20 unrelated to the pest repeller, correct,  
 21 because the pest repeller is not on?  
 22 MR. WING: Object to form.  
 23 A. It's possible. I don't know.  
 24 It's possible.  
 25 Q. And is that the reason why you

Page 110

1 run a pretest?  
 2 A. Yes. We want to compare pre and  
 3 after. We want to see the influence of  
 4 the ultrasonic with and without and how it  
 5 really move, how do they consume the food  
 6 and water.  
 7 Q. Now, the test protocol that you  
 8 utilize was based on, I believe you  
 9 testified, it was the University of  
 10 Michigan, the proposal they sent to you,  
 11 right?  
 12 A. For the chamber design, yes,  
 13 mm-hm.  
 14 Q. And that proposal was designed  
 15 specifically for Intellitree, correct?  
 16 A. Correct, yes.  
 17 Q. And that was the sole basis for  
 18 the protocols that you wrote later on,  
 19 correct?  
 20 MR. WING: Object to form.  
 21 A. Not the sole basis.  
 22 Q. What else did you use?  
 23 A. I have referred to previous  
 24 testing we have. And I also have talked  
 25 to Qmann, the owner of the Qmann, he's

Page 111

1 David. He's in New York. So he's a  
 2 specialty in quality control. So I also  
 3 asked his advice.  
 4 Q. What is his last name?  
 5 A. McVoy, M-C-V-O-Y. I'm not sure.  
 6 I have to check my record.  
 7 Q. So we've got the proposal from  
 8 University of Michigan, right?  
 9 A. Mm-hm.  
 10 Q. And we've got advice from David  
 11 McVoy.  
 12 A. Yes.  
 13 Q. What else did you use?  
 14 A. And I also referred to the  
 15 previous testing we have.  
 16 Q. You mean, are you referring to  
 17 the previous testing from the University  
 18 of Taiwan?  
 19 A. No. The University of --  
 20 Q. Beijing, excuse me.  
 21 A. Yeah, Beijing, yes. And we also  
 22 have two pest tests we have prior to the  
 23 new protocol from SGS in Taiwan.  
 24 Q. Who designed those?  
 25 A. Those are pretty much based on

Page 112

1 Beijing's protocol.  
 2 Q. Okay. And Beijing made its  
 3 protocol solely -- this was a new protocol  
 4 Beijing made --  
 5 A. Yes.  
 6 Q. -- to test Intellitree's --  
 7 A. Right. The new protocol is,  
 8 number one, our testing period is longer.  
 9 Number two, we have pre and post the test  
 10 to observe the influence, ultrasonic  
 11 influence for the pest. And number three,  
 12 the chamber design is from the University  
 13 of Michigan. So it's a combination of  
 14 this. And we also, as per David's advice,  
 15 we also add observation and record the  
 16 water and food consumption.  
 17 Q. Whose idea was it to have that?  
 18 A. David.  
 19 Q. I see. Are there any other  
 20 sources that you used that we haven't  
 21 covered in writing the protocols for these  
 22 tests?  
 23 A. No.  
 24 Q. Who paid the labs for these  
 25 tests?

Page 113

29 (Pages 110 - 113)

D. Feuerstein

1 A. Intellitec.  
 2 Q. For all of the tests, Intellitec  
 3 paid?  
 4 A. All of the tests, yes.  
 5 Q. Were retainers given beforehand?  
 6 A. What do you mean, retainer?  
 7 Q. That means prepayment before the  
 8 test was conducted.  
 9 A. Oh, no. Everything has to be  
 10 paid hundred percent before they conduct  
 11 the test. All the laboratory require full  
 12 payment before they start it.  
 13 Q. And did the amount paid for the  
 14 test, did those ever change? Did they  
 15 ever alert you that you owe more money,  
 16 for instance?  
 17 A. No. They -- yeah, every time  
 18 the test is different because it depends  
 19 on who is the person who was in charge of  
 20 that particular test. So every time every  
 21 new test, we submit a protocol and we get  
 22 a quote from them.  
 23 Q. I see.  
 24 A. So it's different every time.  
 25 Q. And when you were deciding, for

Page 114

1 instance, like which spiders to use, if  
 2 you were running a test with spiders, so  
 3 you would go to your pest supplier and you  
 4 would say what spiders do you have  
 5 available to you right now?  
 6 A. Yes. Because we test different  
 7 models different seasons and it really  
 8 depends what they have.  
 9 Q. Have you ever tested the  
 10 repellents in the United States?  
 11 A. No.  
 12 Q. Have you ever tested them  
 13 outside, and you will forgive my political  
 14 ignorance, China, I mean China as in  
 15 Taiwan, Hong Kong, have you ever tested  
 16 them outside that area?  
 17 A. No.  
 18 Q. Do you know what David McVoy's  
 19 background is?  
 20 A. He specializes quality control  
 21 and inspection and he also have some  
 22 laboratory experiences.  
 23 Q. Okay.  
 24 A. But I don't know him personally.  
 25 I have never met him. I talked to him on

Page 115

1 the phone several times.  
 2 Q. How about SGS in Taiwan? Who  
 3 was your contact there?  
 4 A. I don't -- I think it's Owen. I  
 5 don't remember the name. He is the head  
 6 of the department.  
 7 Q. Head of which department is  
 8 that?  
 9 A. I don't remember. It says on  
 10 the report, but I don't remember.  
 11 Q. It says it on the report?  
 12 A. Yes. I think he is the one who  
 13 signed the report. He is also the  
 14 department supervisor.  
 15 Q. And were you in touch with the  
 16 labs over the course of testing to see how  
 17 the testing progressed?  
 18 A. Unless they have problem or  
 19 issues about protocol, no, I just wait for  
 20 their result.  
 21 Q. But if problems arose then they  
 22 informed you and you dealt with it?  
 23 A. If the pest died during the  
 24 testing, then it would require the field  
 25 to do a new test and they also mention in

Page 116

1 the report. Because sometimes they die  
 2 from natural cause, then we have to fill  
 3 in the same number of the pests.  
 4 Q. Have any of these laboratories  
 5 ever conducted field tests on the  
 6 repellents as opposed to laboratory tests?  
 7 And if you need me to --  
 8 A. You mean outdoor?  
 9 Q. No, that's not what I mean. I  
 10 mean field tests as in try placing them in  
 11 a site where there was already a pest  
 12 problem, let's say?  
 13 A. No. No.  
 14 Q. Now, in the copies of the tests  
 15 which were produced, it looks like most of  
 16 them lasted right around a  
 17 week-and-a-half, give or take a couple  
 18 days, does that sound right to you?  
 19 A. Mm-hm, yes.  
 20 Q. Did you consider testing the  
 21 repellents for a longer period than that?  
 22 A. Longer period? No. We haven't  
 23 done longer period than our current  
 24 protocol.  
 25 Q. Why do you think that a

Page 117

30 (Pages 114 - 117)



D. Feuerstein

1 week-and-a-half was the correct amount of  
 2 time to use in the protocol?  
 3 MR. WING: Object to form.  
 4 Q. You can answer.  
 5 MR. WING: You can.  
 6 A. Because from our experience, it  
 7 would take a few days for the ultrasonic  
 8 to kick in. The pests really cannot  
 9 endure the constant loud noise. They  
 10 don't move from day one. They move from a  
 11 few days. So that's how we determine  
 12 eleven period, eleven days, it's the  
 13 appropriate testing period.  
 14 Q. I see. So these tests were  
 15 designed to see if the -- would you agree  
 16 when I say that the purpose of these tests  
 17 were designed to see if the repellency  
 18 effect of these devices would kick in,  
 19 rather than to measure their long-term  
 20 effects, let's say?  
 21 A. Sorry, I don't understand the  
 22 question.  
 23 Q. Would you agree that none of  
 24 these tests measured the efficacy of the  
 25 devices over a longer period of time?

Page 118

1 MR. WING: Object to form.  
 2 A. Sorry, I still don't understand,  
 3 I'm sorry.  
 4 Q. That's okay.  
 5 So --  
 6 A. Because you could see from a  
 7 test report the pests gradually moved  
 8 after two or three days.  
 9 Q. Right. So if a test lasts for  
 10 eleven days, let's say, right?  
 11 A. Mm-hm, yes.  
 12 Q. So this test was designed to see  
 13 what the effect would be over eleven days,  
 14 the test was not designed to see what the  
 15 effect would be over twenty days or  
 16 forty days or fifty days, correct?  
 17 A. No. We haven't done that test.  
 18 We have not done that test.  
 19 Q. When you conducted a test with  
 20 these laboratories, did you give them  
 21 copies of prior testing reports?  
 22 A. Yes. Some of them, because some  
 23 of them, they don't know how to do the  
 24 test, so we did provide them the format.  
 25 Q. So --

Page 119

1 A. But there's --  
 2 Q. Sorry, go ahead.  
 3 A. Sorry, we did provide a format,  
 4 but these are independent labs. They  
 5 refer it, but they actually have their own  
 6 form and their own document.  
 7 Q. So in other words, for instance,  
 8 if you were contracting with Intertek to  
 9 do tests for you, you provided them with  
 10 the SGS reports so they would know how to  
 11 format their report?  
 12 A. They know how to conduct the  
 13 test as per the report, yes. It give them  
 14 better understanding.  
 15 Q. So in many instances where the  
 16 language mirrors -- right, if an Intertek  
 17 report, the language sounds the same as  
 18 the SGS report, that's because they pulled  
 19 that from the SGS report, correct?  
 20 MR. WING: Object to form.  
 21 A. I don't know about it.  
 22 Q. You don't know?  
 23 A. Yeah.  
 24 MR. KOPEL: I ask the court  
 25 reporter to mark as Exhibit 17 a

Page 120

1 document bearing the Bates numbers  
 2 BHH, LLC 001268 through 1272.  
 3 (Plaintiffs' Exhibit 17 was  
 4 marked for identification, as of this  
 5 date.)  
 6 Q. Please let me know when you are  
 7 ready.  
 8 A. Yes.  
 9 Q. Do you have Exhibit 17?  
 10 A. Yes, I do.  
 11 Q. Have you seen it before?  
 12 A. Yes.  
 13 Q. What is it?  
 14 A. It's the progress report  
 15 regarding new testing.  
 16 Q. Is this an e-mail from you to  
 17 Jeffrey Mishan, dated April 1, 2016?  
 18 A. Yes.  
 19 Q. So this e-mail was sent during  
 20 the course of testing to update Mr. Mishan  
 21 on what was happening in the testing,  
 22 correct?  
 23 A. Yes.  
 24 Q. You see it says 3/18 to 3/24.  
 25 There is a bullet point that says that?

Page 121

31 (Pages 118 - 121)

## D. Feuerstein

1 A. That's the date, yes.  
 2 Q. Do you see just below, it says:  
 3 SGS and Intertek were onsite to supervise  
 4 testing?  
 5 A. Yes.  
 6 Q. Who were SGS and Intertek  
 7 supervising?  
 8 A. They have their own technician.  
 9 They send their own -- each lab have their  
 10 own technician. So there's different  
 11 technicians from two different labs.  
 12 Q. Were they collaborating on this  
 13 test?  
 14 A. No. They came in different  
 15 time.  
 16 Q. Where was this?  
 17 A. It was in Dunhuang. It's  
 18 independent facility because this test is  
 19 so unhealthy, so it cannot be conducted in  
 20 any lab or factory environment.  
 21 Q. So what was this independent  
 22 location? Can you please describe it?  
 23 A. It's a building in Dunhuang.  
 24 Dunhuang City, in China.  
 25 Q. It's a building, you said?

Page 122

1 mice might escape from the chamber so it  
 2 would affect the test results. So they  
 3 want us to repair everything before they  
 4 continue.  
 5 Q. So at that point you made a  
 6 decision to move the testing to another  
 7 location?  
 8 A. Yes. Also because it was a  
 9 rainy season and it was very -- the  
 10 humidity was 80, 90 percent and this  
 11 testing, we have video onsite seven -- I  
 12 mean, twenty-four hours. And because the  
 13 humidity was so hot, they won't be able to  
 14 see through the chamber to see inside the  
 15 pest activity. So then we have to move to  
 16 another location with less humidity.  
 17 Q. Did SGS and Intertek, did they  
 18 have access to each other's testing within  
 19 that same location?  
 20 A. No, no, no.  
 21 Q. How do you know that?  
 22 A. You mean access to each other?  
 23 Q. Yes.  
 24 A. Means that they met each other?  
 25 Q. In other words, they were

Page 124

1 A. Yes, it's a -- I wasn't there,  
 2 so I don't know the full description of  
 3 the building.  
 4 Q. Do you see on the fifth bullet  
 5 point under that heading, it says: SGS  
 6 and Intertek technicians ordered us to  
 7 stop testing?  
 8 A. Right.  
 9 Q. Who did they order to stop  
 10 testing?  
 11 A. Ordered -- I shouldn't say  
 12 order. They told us they would stop  
 13 testing because the chamber was broken, so  
 14 they refused to pursue. The chamber was  
 15 broken by the rat. They bite it and it  
 16 was broken. So we need to -- I don't  
 17 remember. I think one chamber, we have to  
 18 remake it and some of them we have to  
 19 repair it.  
 20 Q. So when you say ordered us to  
 21 stop testing, who was conducting this  
 22 testing that was ordered to stop it?  
 23 A. Maybe my English wasn't right.  
 24 Just they required to stop the testing.  
 25 So because the chamber was broken, the

Page 123

1 running separate tests in one location?  
 2 A. Yes. They came -- they came in  
 3 different times, so they don't see each  
 4 other.  
 5 Q. They didn't see each other?  
 6 A. No, they didn't see.  
 7 Q. How long were they there for  
 8 each visit?  
 9 A. A couple hours. But again, this  
 10 testing is filmed with camera the whole  
 11 time.  
 12 Q. And were they in contact with  
 13 each other about the testing?  
 14 A. No.  
 15 Q. How do you know that?  
 16 A. Because this is their policy.  
 17 All the laboratory are independent. They  
 18 are highly ethical. They have to be --  
 19 you know, they cannot have influence from  
 20 any third-party about their own test  
 21 result.  
 22 Q. Thanks. You can put that aside.  
 23 A. (Complying.)  
 24 MR. KOPEL: I ask the court  
 25 reporter to please mark as Exhibit 18

Page 125



D. Feuerstein

1 a document bearing the Bates number  
 2 Feuerstein 000086 to 000100.  
 3 (Plaintiffs' Exhibit 18 was  
 4 marked for identification, as of this  
 5 date.)  
 6 Q. Please let me know when you are  
 7 ready.  
 8 A. (Reviewing exhibit.) Yes.  
 9 Q. Do you have Exhibit 18?  
 10 A. Yes.  
 11 Q. Have you seen it before?  
 12 A. Yes.  
 13 Q. What is it?  
 14 A. It's pest test report from  
 15 Intertek.  
 16 Q. Is this the test report, does  
 17 this reference the same test that you were  
 18 discussing in the e-mail we just talked  
 19 about, Exhibit --  
 20 A. Yes.  
 21 Q. -- 17?  
 22 Do you see about halfway down  
 23 the page, it says test: Standard/method,  
 24 according to client's requirements?  
 25 A. Which page are you on?

Page 126

1 Q. Sure. I am on page 86, Bates  
 2 number 86.  
 3 A. Okay.  
 4 Q. And there is a heading that  
 5 says: Test content.  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. And then it says: Test  
 9 standard/method, it says, according to  
 10 client's requirements.  
 11 A. Yes.  
 12 Q. So this is referencing the fact  
 13 that you gave them the protocol first,  
 14 right?  
 15 A. Correct, yes.  
 16 Q. Do you see on too top of that,  
 17 it says: Test requested, witness for  
 18 performance testing, rats and mice?  
 19 A. Yes.  
 20 Q. Is that true; were they a  
 21 witness for performance testing?  
 22 A. Yes. Witness means that they  
 23 record -- we provide the chambers.  
 24 Chamber, the design's ours, we provide the  
 25 chambers, so they come in to witness and

Page 127

1 record the result.  
 2 Q. Who were they witnessing?  
 3 A. Their technician from Intertek.  
 4 Q. So you are saying they conducted  
 5 the test?  
 6 A. They -- they --  
 7 Q. I'm sorry, maybe I can clarify.  
 8 A. Okay.  
 9 Q. Did they conduct these tests, or  
 10 did they witness the test?  
 11 MR. WING: Object to form.  
 12 THE WITNESS: I can answer?  
 13 MR. WING: Yes.  
 14 A. They -- I don't know how to say  
 15 conduct or witness. They come in, they  
 16 see the chamber and they record the result  
 17 and they weigh the water and the food  
 18 consumption, so I don't know how you say  
 19 it's witness or conducted.  
 20 Q. So they were not observing a  
 21 third-party conducting the test; they were  
 22 conducting it themselves?  
 23 A. Yes.  
 24 Q. Please keep that handy. I would  
 25 like to come back to it.

Page 128

1 A. Okay.  
 2 MR. KOPEL: I ask the court  
 3 reporter to mark as Exhibit 19 a  
 4 document bearing Bates number BHH, LLC  
 5 1531 to 1544.  
 6 (Plaintiffs' Exhibit 19 was  
 7 marked for identification, as of this  
 8 date.)  
 9 Q. Please let me know when you are  
 10 ready.  
 11 A. (Reviewing exhibit.) Yes.  
 12 Q. Are you ready?  
 13 A. Yes.  
 14 Q. Do you have Exhibit 19?  
 15 A. Yes.  
 16 Q. Have you seen it before?  
 17 A. Yes.  
 18 Q. What is it?  
 19 A. It's a cover letter that I sent  
 20 to SGS 2016 test report to Mr. Mishan.  
 21 Q. And is this referencing an SGS  
 22 test that was run concurrent with Intertek  
 23 tests in Exhibit 18?  
 24 A. Yes.  
 25 Q. Can you please turn to the last

Page 129

33 (Pages 126 - 129)

## D. Feuerstein

1 page of Exhibit 19, that's page BIII, LLC  
2 001544?

3 A. What's the number again?

4 Q. Sure. It's BHH, LLC 001544.

5 A. Okay.

6 Q. It's the last page of  
7 Exhibit 19.

8 A. Got it.

9 Q. Do you see halfway in the page,  
10 it says: Note: In accordance with  
11 client's instructions -- now, they are  
12 referring to you, you are the client,  
13 that's Intellitree?

14 A. Yes.

15 Q. -- the company involvement has  
16 been limited to witnessing/observing a  
17 third-party's interventions at the  
18 facility where the interventions took  
19 place. The company's sole responsibility  
20 was to be present at the time of the  
21 third-party interventions and to confirm  
22 and report the occurrence of the  
23 interventions. The company is not  
24 responsible for the methods applied, the  
25 qualifications, actions or omission of the

Page 130

1 third-party's personnel or results or  
2 effectiveness of the interventions.

3 Do you see that?

4 A. Yes.

5 Q. Is that true or false?

6 A. I think this is just a general  
7 term the lab put in to -- it's just a  
8 general term.

9 Q. Who is the third-party they are  
10 referencing?

11 A. I guess they are referring to  
12 the facility.

13 Q. Was the facility's personnel  
14 conducting the interventions in the test?

15 A. I'm sorry, the question again?

16 Q. Sure. Was the facility's  
17 personnel conducting the interventions in  
18 this test?

19 A. No, because all the chambers was  
20 sealed by them, so no other body can open  
21 the chambers.

22 Q. Do you see here it says: The  
23 company's sole responsibility was to be  
24 present at the time of the third-party's  
25 interventions? Sentence two.

Page 131

1 A. The company -- who are they  
2 referring to, the company? It's Intertek  
3 or? This is done in an independent  
4 facility and the chambers are all sealed,  
5 they mention it in their previous report.  
6 And as I say, they can't do this testing  
7 inside their own lab because the hygiene  
8 reason, right. So this facility we rented  
9 for the testing.

10 Q. Okay.

11 A. Yes. So I guess that they are  
12 referring to the third-party, maybe, just  
13 referring to the third-party who owns the  
14 facility.

15 Q. Okay.

16 A. And you see on the last page,  
17 1544, on the top, do you see the pictures?  
18 There are several cameras, actually  
19 installed, in the facility to film the  
20 entire process of the testing. Do you see  
21 the last page, there are actual cameras?

22 Q. So you believe the third-party  
23 that is referenced in this paragraph is  
24 referring to the owner of the facility?

25 A. Yes.

Page 132

1 Q. Do you know who the owner of the  
2 facility was?

3 A. No, I don't. I don't get  
4 involved about their renting the space.  
5 We just -- they just tell me the space,  
6 it's good enough for us to run the  
7 testing.

8 Q. To your knowledge, did the owner  
9 of the facility or its personnel have any  
10 scientific, specialized scientific  
11 knowledge or capability to run tests?

12 A. No, no.

13 Q. Do you agree that where it says  
14 here the company's involvement has been  
15 limited to witnessing/observing a  
16 third-party's interventions at the  
17 facility where the interventions took  
18 place, do you believe that's true or  
19 false?

20 MR. WING: Object to form.

21 You can answer.

22 A. I believe they have the full  
23 control because since they seal  
24 unbreakable seal on the chambers, so no  
25 one else can open the thing. But as a

Page 133



D. Feuerstein

1 laboratory, I think they just put this  
 2 clause to protect themselves.  
 3 Q. Do you believe that it was put  
 4 here to protect themselves, but it's not  
 5 true?  
 6 MR. WING: Object to form.  
 7 A. Protect themselves, yes.  
 8 Q. But do you believe that this is  
 9 false?  
 10 MR. WING: Same objection.  
 11 A. Yes. Because no one's -- no  
 12 one's able to touch those chambers.  
 13 Q. Okay.  
 14 A. From the picture before, you  
 15 could see the seal of the -- on the  
 16 chambers and design close, so nobody can  
 17 open it.  
 18 Q. Did you look over this test  
 19 before you sent it to Mr. Mishan?  
 20 A. I did read it.  
 21 Q. Did you go back to the company  
 22 and say why did you put something false in  
 23 the test?  
 24 A. No.  
 25 Q. Did it concern you that there

Page 134

1 was something --  
 2 A. For me, I just think it's a  
 3 general clause for laboratory to put that  
 4 term on.  
 5 Q. So it didn't concern you that  
 6 you thought something in there was false?  
 7 A. No.  
 8 MR. WING: Object to form.  
 9 A. No. Especially testing is the  
 10 most thorough testing we have with a video  
 11 recording, so I don't believe any  
 12 personnel except their lab technician is  
 13 doing the testing.  
 14 Q. Did you ever reach out to  
 15 Intertek and say, why did you list  
 16 yourself as a witness; you are the one who  
 17 conducted the test?  
 18 A. No, I don't contact Intertek,  
 19 no.  
 20 Q. Did it concern you that they  
 21 listed themselves as a witness when you  
 22 believe that they were more than a  
 23 witness?  
 24 A. I did think about that, but I  
 25 also thought of because this testing is

Page 135

1 supported by video recording, so I'm not  
 2 concerned.  
 3 Q. On Exhibit 18, when it says  
 4 witness for performance testing, do you  
 5 disagree with that?  
 6 MR. WING: Object to form.  
 7 A. Yes. Sometimes the English is  
 8 not really the best I would like, but this  
 9 lab, we can't really make them change  
 10 much.  
 11 Q. But to clarify, you do disagree  
 12 with that statement, right?  
 13 MR. WING: Object to form.  
 14 A. I don't have particular opinion  
 15 about this term because for me, I think  
 16 most important is the result, they record  
 17 it in the report.  
 18 Q. Okay, sure. I'm just asking if  
 19 you agree with this term or not.  
 20 A. I think I'm okay with it.  
 21 Q. So you think that they were a  
 22 witness?  
 23 A. They witness, but they are also  
 24 conducting the report. It says in the  
 25 report. So I am not -- no, I think it's

Page 136

1 okay, because for me, the most important  
 2 is the result, effect of the test.  
 3 Q. Who is Leo Lynn?  
 4 A. I believe it's the technician  
 5 who performed this test.  
 6 Q. Do you know what his  
 7 qualifications are?  
 8 A. I do. I do. But I don't have  
 9 it with me right now. I think he's --  
 10 they are specialists, professionals.  
 11 Q. Do you know if they have ever  
 12 conducted other tests on ultrasonic pest  
 13 repellents?  
 14 A. No, I don't know.  
 15 Q. Do you know if they have ever  
 16 conducted other tests on pest management  
 17 products?  
 18 A. Yes. Intertek performed a test  
 19 a couple years earlier.  
 20 Q. What was that?  
 21 A. I don't remember which year,  
 22 2013 or '14, they did another test,  
 23 ultrasonic pest repeller, but it's not  
 24 done by Leo Lynn. It was a different  
 25 technician.

Page 137

35 (Pages 134 - 137)



D. Feuerstein

1 Q. Okay. So that was also a test  
2 on an ultrasonic repeller?  
3 A. Yes.  
4 Q. Other than a test done on your  
5 ultrasonic repellents, are you aware of any  
6 tests that Intertek has done on pest  
7 management products or --  
8 A. We don't know. They won't  
9 reveal that information to us.  
10 Q. The same goes for the other labs  
11 we discussed before, right?  
12 A. Yes.  
13 Q. Who is Sam Lin?  
14 A. It's a supervisor of Leo.  
15 Q. Is he related to Leo?  
16 A. Hm? I'm sorry?  
17 Q. Is he related to Leo?  
18 A. No. They are -- no, I'm sure --  
19 I'm sure they are not related. Lin is a  
20 pretty big Chinese name in China. It's  
21 very common. I am sure they are not  
22 related.  
23 I think I asked for their  
24 qualification a few weeks ago, but I don't  
25 have it with me right now.

Page 138

1 Q. In this experiment, who prepared  
2 the experiment? Was that Intertek?  
3 Intertek prepared the experiment?  
4 A. What do you mean, "experiment"?  
5 Q. This test, who set up this test?  
6 A. You mean the chambers?  
7 Q. Yes.  
8 A. We provide the chambers.  
9 Q. Who set up the chambers with the  
10 insects?  
11 A. I think my people set it up.  
12 When they set it up, they come in, we have  
13 to spread the test evenly, it was with the  
14 supervision of the labs.  
15 Q. Who -- which of your people set  
16 it up?  
17 A. Jason.  
18 Q. Who --  
19 A. Jason Li of my office in China.  
20 The chambers --  
21 Q. I'm sorry, did we discuss Jason?  
22 What is his last name?  
23 A. Jason Li.  
24 Q. D?  
25 A. No. Li, L-I.

Page 139

1 We provide the chambers and the  
2 chamber design is per our protocol, so we  
3 provide the chambers. And because the  
4 rat -- they eat each other, rat will eat  
5 mice, mice will eat spiders, so we have  
6 separate chambers for each pest.  
7 Q. What's Mr. Li's background?  
8 A. Mr. Li's engineer. He is also a  
9 qualified certified ISO 9000 engineer. He  
10 work for my company. He is doing  
11 everything about operation. He is  
12 responsible.  
13 Q. So his position at your company  
14 is engineer?  
15 A. Not engineer. He is actually a  
16 manager for operation.  
17 Q. Do you know where he has his  
18 degree from?  
19 A. I don't remember. He is a  
20 university graduate. And he has a lot of  
21 certifications.  
22 Q. Do you know what those  
23 certifications include?  
24 A. I know including ISO 9000. He  
25 can certify factory with ISO 9000 system.

Page 140

1 And he, himself, is a mechanical engineer.  
2 Q. So Intertek watched Mr. Li set  
3 up the experiment, correct?  
4 A. We -- we -- when we say set up,  
5 we just set up the chambers. But when we  
6 put the pests into the chambers, that was  
7 with the supervision of the laboratories.  
8 Q. Okay, so Mr. Li put the pests  
9 into the chambers while the laboratories  
10 were watching, right?  
11 A. Yes.  
12 Q. And sometimes there were  
13 additional pests added to the chambers  
14 during the course of the experiment when  
15 certain pests died, right?  
16 A. Yes.  
17 Q. Who did -- did Mr. Li do that,  
18 as well?  
19 A. We had to do that with the  
20 supervision of the lab because they have  
21 to open the chamber, otherwise we don't  
22 have any access to touch any of the pests.  
23 Q. Okay.  
24 A. So everything -- everything --  
25 they do the head count of the pests, they

Page 141

36 (Pages 138 - 141)



D. Feuerstein

1 have to come in, open the chamber, take  
2 off the seal and then do whatever they  
3 have to do, count the pests, add water,  
4 weigh the water and weigh the food and  
5 they have to record all the consumption of  
6 the water and the food.

7 So they did all of that  
8 themselves, and we were just on the side  
9 to see what else, you know.

10 Q. When food and water was added,  
11 Mr. Li added that and they were watching?

12 A. No. They added. The lab was  
13 added. We are not allowed to touch. They  
14 added themselves.

15 Q. Mr. Li set up the experiments  
16 and the pests for all the laboratory tests  
17 you've produced?

18 A. Yes, the chambers only.

19 Q. And he was onsite for the  
20 testing?

21 A. He was not, unless -- I mean,  
22 the room was locked, but he was there when  
23 the laboratory technicians were there.

24 Q. Mr. Li had a key to that, to the  
25 premises, right?

Page 142

1 A. I'm sorry?

2 Q. Mr. Li, Mr. Li had access to the  
3 premises?

4 A. Yes.

5 Q. Referring to Exhibit 18, this  
6 was a test of rats and mice, correct?

7 A. Yes. They have separate reports  
8 for other pests.

9 Q. Were the rats and mice tested  
10 together?

11 A. Different chambers. The rats  
12 eat mice.

13 Q. So one of them was in chamber A,  
14 one of them was in chamber B?

15 A. I'm sorry, they all say chamber  
16 one and chamber B, because chamber one  
17 they are connected with a curve tunnel,  
18 but they are in different chambers.

19 Q. I am just trying to understand.  
20 So let's say the rats might have been in  
21 chamber A and the mice might have been in  
22 chamber B --

23 A. No.

24 Q. -- and they were connected with  
25 the tunnel?

Page 143

1 A. No. We are two -- there are two  
2 different test equipment. Rat has cats on  
3 chamber A and B and mice have cats on  
4 chamber A and B, because if we put them in  
5 one chamber, the rats will be eaten by the  
6 rats -- the mice will be eaten by the  
7 rats. Rat is more vicious and they are  
8 much bigger size. So you could see -- you  
9 don't see mice and rat together in one  
10 picture.

11 Q. Do you see other pictures here  
12 depicting the separate devices used?

13 A. From 000094, you could see there  
14 are multiple chambers. And then you could  
15 see from the same page, 0094, you could  
16 see these four pictures are for the black  
17 rat. And the next page, you can only see  
18 white. So these are separate testing  
19 chambers for the mice. So they are  
20 testing different chambers.

21 Q. What was the species of rats  
22 used in this experiment?

23 A. I don't know the species.

24 Depends on the season, what we can get.

25 Q. Is it helpful to know this was

Page 144

1 conducted in May?

2 A. No. Actually, it was conducted  
3 in April.

4 Q. Excuse me.

5 A. Testing from April 7th to  
6 April 18th.

7 Q. Okay.

8 A. And they issue a report in May.

9 Q. Do you know what species of rats  
10 were used?

11 A. No, I don't.

12 Q. Can you please turn to page 91?

13 A. (Complying.) Yes.

14 Q. Now, to be clear, this page  
15 depicts observations of the quantity of  
16 rats in chamber A and chamber B throughout  
17 the test, correct?

18 A. Correct.

19 Q. This test ran seven days with  
20 two days of preliminary testing and two  
21 days of post testing, correct?

22 A. Total eleven days, correct.

23 Q. Right, total of eleven days,  
24 thank you.

25 And at the outset of this

Page 145

37 (Pages 142 - 145)



D. Feuerstein

1 experiment, the rats were divided 50/50?  
 2 A. Yes.  
 3 Q. Right, between the two chambers?  
 4 A. Correct.  
 5 Q. And then how much time passed  
 6 between when the experiment was set up and  
 7 10:30 a.m. on April 8th?  
 8 A. Sorry, can you rephrase the  
 9 question again?  
 10 Q. Sure. How much time passed in  
 11 between when this experiment was set up  
 12 and 10:30 a.m. on April 8th?  
 13 A. You mean how -- when did we set  
 14 up the thing until they actually began the  
 15 testing on April 8th?  
 16 Q. Well, so April 8th, there are  
 17 some figures here where they observed,  
 18 right, the amount of rats in each chamber  
 19 and the amount of food that was consumed  
 20 in each chamber, right?  
 21 A. Yes.  
 22 Q. So how much time passed in  
 23 between when the rats were placed in the  
 24 chamber, and when this first reading was  
 25 taken?

Page 146

1 why that might have happened?  
 2 A. No. April 8th and April 9th,  
 3 the ultrasonic pest repeller was not  
 4 turned on, so they are just roaming freely  
 5 into chamber A and chamber B for no  
 6 reason.  
 7 Q. So there is no explanation for  
 8 why one chamber had doubled the amount?  
 9 A. No. We put the same amount of  
 10 the food in chamber A and chamber B, so  
 11 that just -- there's no reason. They have  
 12 no ultrasonic and we just record it.  
 13 Q. Okay.  
 14 A. Mm-hm.  
 15 Q. So you would agree that the fact  
 16 that there were seven more rats in chamber  
 17 B on April 9th than there were on chamber  
 18 A, nothing can be read into that, correct?  
 19 A. Nothing, yeah.  
 20 Q. And let me ask you something.  
 21 What if we had started with a hundred rats  
 22 or two hundred? Let's say we started with  
 23 two hundred rats. And at this point,  
 24 there were also twice as many in chamber B  
 25 than there were in chamber A.

Page 148

1 A. I -- I assume either the day  
 2 before or a couple hours -- any way -- no.  
 3 Because normally we put the mice and rat  
 4 inside when they are there, so I don't  
 5 know what time do they arrive on the day.  
 6 Q. Okay.  
 7 A. Yes.  
 8 Q. So you are not sure how much  
 9 time passed?  
 10 A. I'm not sure, but we did it with  
 11 the supervision of the technician.  
 12 Q. So we are not sure how much time  
 13 passed but in between the time it was set  
 14 up -- all right, so if there were -- it  
 15 appears that there were, I guess, a total  
 16 of twenty-four rats.  
 17 A. Yeah.  
 18 Q. Right? Then we see that -- we  
 19 see that on April 8th, several of the rats  
 20 moved from chamber A to chamber B and then  
 21 April 9th, even more rats moved such that  
 22 there were twice as many rats in chamber B  
 23 as there were in chamber A, right?  
 24 A. Right, yes.  
 25 Q. Do you have any understanding of

Page 147

1 Would that have suggested  
 2 anything to you?  
 3 MR. WING: Object to form.  
 4 A. No. No, I think it's just the  
 5 nature of the activity of the pest.  
 6 Q. Where they can roam freely and  
 7 where they end up might be a matter of  
 8 coincidence?  
 9 A. Yes.  
 10 Q. How would you be able to  
 11 establish that the movement of a rat was  
 12 not due to coincidence or roaming freely?  
 13 Would there be a certain number of rats  
 14 you would need? Would there be a certain  
 15 amount of repetitions? What would you  
 16 need to show that it was not a coincidence  
 17 that rats moved from one chamber to  
 18 another?  
 19 MR. WING: Object to form.  
 20 A. I'm sorry, I don't know how to  
 21 answer the question.  
 22 Q. Sure. So I believe you  
 23 testified that the fact that many rats  
 24 moved from chamber A to chamber B before  
 25 the devices were on, that was a matter of

Page 149

38 (Pages 146 - 149)



D. Feuerstein

1 coincidence, right?  
 2 A. Yes.  
 3 Q. So we have established that rats  
 4 can move from chamber to chamber --  
 5 A. Yes.  
 6 Q. -- by their own fruition, right?  
 7 A. Correct.  
 8 Q. So how can we -- if we are  
 9 looking at an experiment that tracks the  
 10 movement of rats, how can we establish  
 11 that their movement was due to anything  
 12 but coincidence?  
 13 MR. WING: Object to form.  
 14 A. Because we have -- we run so  
 15 many tests all through the years and we  
 16 make sure both chambers have equal  
 17 condition, equal size, equal food and  
 18 water. And you see, it's varying, you  
 19 know, it's varying every test the number  
 20 of the rats and mice or the other pests in  
 21 the chambers. So you could see the  
 22 result, it vary, you know, at the  
 23 beginning, before the influence of the  
 24 ultrasonic. So we can see the pet and  
 25 that it moved for no reason, you know.

Page 150

1 Q. So if there had before -- let's  
 2 say you had waited an extra day and there  
 3 were zero rats in chamber A and twenty in  
 4 chamber B, would you have been able to  
 5 read into that?  
 6 MR. WING: Object to form.  
 7 A. Even with that, I still believe  
 8 that's just the nature of the pest.  
 9 There's no -- any time there is no -- we  
 10 make sure both chambers have the equal  
 11 condition so they just move. They're  
 12 pests. They just move for no reason.  
 13 Q. Would you agree one way to  
 14 eliminate that element of coincidence  
 15 would be to use a larger sample size?  
 16 MR. WING: Object to form.  
 17 A. That I cannot answer. I don't  
 18 know.  
 19 Q. Why can't you answer?  
 20 A. You mean the bigger size of the  
 21 pest number?  
 22 Q. Yes.  
 23 A. I assume the result would be the  
 24 same. It's just -- they just move, you  
 25 know. They -- because run so many test,

Page 151

1 we don't see any particular reason  
 2 before -- before we turned on the  
 3 ultrasonic, because the number can be  
 4 varied; can be more, can be less in  
 5 chamber B.  
 6 Q. So it appears that rats were  
 7 added midway through this experiment; is  
 8 that correct?  
 9 A. Let me see. Yes.  
 10 Q. Where had these new rats been  
 11 prior to the time they were added?  
 12 A. We were keeping them separately  
 13 because we always know that -- we always  
 14 knew that some pests might die during the  
 15 course of the testing, so we always have  
 16 extra pest stand by in case some pest die  
 17 we have to add more.  
 18 Q. They were stored someplace  
 19 outside the chambers, outside the  
 20 experiment?  
 21 A. Outside the chamber, yes.  
 22 Q. So they came in during the  
 23 middle of the test; they had not been  
 24 present for the pre conditioning period,  
 25 correct?

Page 152

1 A. Correct, yes.  
 2 Q. Where were they placed when they  
 3 were added?  
 4 A. I think it's a separate room in  
 5 the building.  
 6 Q. No, when they were added to the  
 7 experiment, where in the device were they  
 8 added? Were they put in chamber A? Were  
 9 they put in chamber B? Were they put in  
 10 the middle?  
 11 A. That, I don't know. I have  
 12 to -- I think -- nobody was under the  
 13 supervision of the lab technician.  
 14 Q. But -- okay, but --  
 15 A. I do not know --  
 16 Q. -- based on this, you don't know  
 17 how --  
 18 A. I don't know, because I wasn't  
 19 there. But, you know, with this  
 20 laboratory, ethical and their independency  
 21 is very important, so I'm sure we don't  
 22 want do anything to -- to interfere with  
 23 the test.  
 24 Q. Now, if you look at the amounts  
 25 of food and water consumed in chamber A,

Page 153

39 (Pages 150 - 153)

D. Feuerstein

1 there was food and water consumed even on  
2 days when zero rats were observed,  
3 correct? So for instance on day four and  
4 five?

5 A. Could be. They might come in,  
6 eat and leave.

7 Q. So would you agree that this  
8 shows that they did come into chamber A on  
9 those dates to eat food; they were just  
10 not observed at that time?

11 A. Right. Might be. Might be.  
12 But you see, on this particular test, one  
13 rat remain in chamber A. So maybe he eat  
14 that food. And you see the quantity is  
15 much less in the other chamber. I'm not  
16 sure that that particular rat ate that  
17 food or some other rat came in, but...

18 Q. I'm sorry, so you think it's  
19 possible that another animal could have  
20 come into the test from outside the test  
21 to eat it?

22 A. You mean from chamber B? They  
23 might come in and if they eat and they run  
24 fast and they go back --

25 Q. But it's clear they had to enter

Page 154

1 chamber A in order to get the food, right?

2 A. They have the access to both.  
3 They are free to move during the whole  
4 testing.

5 Q. Do you know if the frequency of  
6 the device was tested during the course of  
7 this test?

8 A. Yes.

9 Q. Do you know if that is reflected  
10 anywhere in the document?

11 A. Some document, yes, mention the  
12 frequency. Some test reports don't  
13 mention. For this one, they do not  
14 mention.

15 Q. What was the floor of the  
16 chamber made of?

17 A. Clear acrylic. Very thick  
18 acrylic.

19 Q. Why was that selected?

20 A. Number one, it's durable.  
21 Number two, we need to see through the  
22 chamber to see the pest activity.

23 Q. And it was acrylic, the floor  
24 was acrylic for all the tests, to your  
25 knowledge?

Page 155

1 A. The whole chamber, whole  
2 dimension is made clear acrylic, maybe  
3 about two inches thick.

4 Q. And if you could just briefly go  
5 to page 92 with the nice.

6 A. (Complying.) Yes.

7 Q. I don't want to belabor this  
8 point.

9 On April 9th, it looks like  
10 there were thirteen mice in chamber B and  
11 five in chamber A.

12 Do you think that was the result  
13 of a coincidence?

14 A. Yes.

15 Q. So disparate numbers could  
16 happen just because, right?

17 A. Yes.

18 Q. At no time during this  
19 experiment was the repeller placed in  
20 chamber B, correct?

21 A. No time.

22 Q. There was no separate experiment  
23 run with the repeller in chamber B, right?

24 A. No.

25 MR. KOPEL: Let's take a

Page 156

1 quick break, please.

2 THE VIDEOGRAPHER: We are now  
3 going off the record at,  
4 approximately, 2:34 p.m.

5 (Whereupon, a recess was  
6 taken at this time.)

7 THE VIDEOGRAPHER: This is  
8 the beginning of file number four. We  
9 are going back on the record,  
10 approximately, 2:49 p.m.

11 BY MR. KOPEL:

12 Q. Ms. Feuerstein, I think you said  
13 all the chambers on all of the tests run  
14 were made of acrylic; is that correct?

15 A. Yes.

16 Q. Was there furniture in any of  
17 the tests run?

18 A. Sorry?

19 Q. Was there furniture in the  
20 chambers in any of the tests run?

21 A. No, no.

22 Q. And there wasn't any carpeting  
23 or anything of that sort in the tests,  
24 right?

25 A. No.

Page 157

40 (Pages 154 - 157)